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109TH CONGRESS
1st Session

COMMITTEE PRINT

WMCP:
109–7

SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

WRITTEN COMMENTS

ON

TECHNICAL CORRECTIONS TO U.S. TRADE LAWS AND MISCELLANEOUS DUTY SUSPENSION BILLS

SEPTEMBER 2, 2005

Printed for the use of the Committee on Ways and Means

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23–732 WASHINGTON : 2006

For sale by the Superintendent of Documents, U.S. Government Printing Office
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FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON TRADE

FOR IMMEDIATE RELEASE
July 25, 2005
No. TR–3

CONTACT: (202) 225–0649

Shaw Announces Request for Written Comments on Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills

Congressman E. Clay Shaw, Jr. (R–FL), Chairman, Subcommittee on Trade of the Committee on Ways and Means, today announced that the Subcommittee is requesting written comments for the record from all parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals.

BACKGROUND:

On March 10, 2005, Chairman Shaw requested that all Members who planned to introduce technical corrections and miscellaneous duty suspension legislation do so by April 28, 2005. Chairman Shaw is now requesting public comment on those bills listed below and is requesting budget scoring estimates from the Congressional Budget Office. **The deadline for the public to submit written comments to the Committee is Friday, September 2, 2005.** After the comment period, the Subcommittee will review all comments and determine which bills should be included in a miscellaneous trade package. The Subcommittee will consider the extent to which the bills create a revenue loss, operate retroactively, attract controversy, or are not administrable.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit for the record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, *http://waysandmeans.house.gov*, select "*109th Congress*" from the menu entitled, "*Hearing Archives*" (*http://waysandmeans.house.gov/Hearings.asp?congress=17*). Select the request for written comments for which you would like to submit, and click on the link entitled, "*Click here to provide a submission for the record*." Once you have followed the online instructions, completing all informational forms and clicking "submit" on the final page, an email will be sent to the address which you supply confirming your interest in providing a submission for the record. You ***MUST REPLY*** to the email and ***ATTACH*** your submission as a Word or WordPerfect document, in compliance with the formatting requirements listed below, by close of business Friday, September 2, 2005. **Finally**, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package de-

liveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225–1721.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any supplementary materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission or supplementary item not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be provided in Word or WordPerfect format and MUST NOT exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. All submissions must include a list of all clients, persons, and/ororganizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone and fax numbers of each witness.

SUMMARY OF BILLS:

Duty Suspension or Reduction bills:

H.R. 53—A bill to suspend temporarily the duty on chloroneb.
H.R. 178—A bill to suspend temporarily the duty on Dichloroethyl Ether.
H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture.
H.R. 521—A bill to impose tariff-rate quotas on certain casein and milk protein concentrates.
H.R. 617—A bill to suspend temporarily the duty on p-nitrobenzoic acid (PNBA).
H.R. 636—A bill to suspend temporarily the duty on Allyl Pentaerythritol (APE).
H.R. 637—A bill to suspend temporarily the duty on Butyl Ethyl Propanediol (BEPD).
H.R. 638—A bill to suspend temporarily the duty on BEPD70L.
H.R. 639—A bill to suspend temporarily the duty on Boltorn-1 (Bolt-1).
H.R. 640—A bill to suspend temporarily the duty on Boltorn-2 (Bolt-2).
H.R. 641—A bill to suspend temporarily the duty on Cyclic TMP Formal (CTF).
H.R. 642—A bill to suspend temporarily the duty on DiTMP.
H.R. 643—A bill to suspend temporarily the duty on Polyol DPP (DPP).
H.R. 644—A bill to suspend temporarily the duty on Hydroxypivalic Acid (HPA).
H.R. 645—A bill to suspend temporarily the duty on TMPDE.
H.R. 646—A bill to suspend temporarily the duty on TMPME.
H.R. 647—A bill to suspend temporarily the duty on TMP Oxetane (TMPO).
H.R. 648—A bill to suspend temporarily the duty on TMPO Ethoxylate (TMPOE).
H.R. 707—A bill to amend the Harmonized Tariff Schedule of the United States with respect to rattan webbing.
H.R. 1068—A bill to maintain and expand the steel import licensing and monitoring program.
H.R. 1115—A bill to amend the Harmonized Tariff Schedule of the United States to clarify the tariff rate for certain mechanics' gloves.
H.R. 1121—A bill to repeal section 754 of the Tariff Act of 1930.
H.R. 1202—A bill to suspend temporarily the duty on unidirectional (cardioid) electret condenser microphone modules for use in motor vehicles.
H.R. 1221—A bill to suspend temporarily the duty on certain rubber or plastic footwear.
H.R. 1230—A bill to extend trade benefits to certain tents imported into the United States.
H.R. 1274—A bill to suspend temporarily the duty on amyl-anthraquinone.
H.R. 1336—A bill to amend the Harmonized Tariff Schedule of the United States to clairfy the classification of laser light sources for semiconductor manufacturing.
H.R. 1391—A bill to suspend temporarily the duty on allyl ureido monomer.

H.R. 1392—A bill to suspend temporarily the duty on methacrylamido etheleneurae monomer.

H.R. 1407—A bill to provide that certain wire rods shall not be subject to any antidumping duty or countervailing duty order.

H.R. 1444—A bill to suspend temporarily the duty on certain meatless frozen food products.

H.R. 1464—A bill to suspend temporarily the duty on certain pimientos (capsicum anuum), prepared or preserved otherwise than by vinegar or acetic acid.

H.R. 1465—A bill to suspend temporarily the duty on certain pimientos (capsicum anuum), prepared or preserved by vinegar or acetic acid.

H.R. 1466—A bill to suspend temporarily the duty on certain pimientos (capsicum anuum), prepared or preserved otherwise than by vinegar or acetic acid.

H.R. 1534—A bill to suspend temporarily the duty on certain synthetic staple fibers that are not carded, combed, or otherwise processed for spinning.

H.R. 1535—A bill to suspend temporarily the duty on acrylic or modacrylic synthetic filament tow.

H.R. 1536—A bill to suspend temporarily the duty on certain synthetic staple fibers that are carded, combed, or otherwise processed for spinning.

H.R. 1537—A bill to suspend temporarily the duty on nitrocellulose.

H.R. 1609—A bill to reduce until December 31, 2008, the duty on potassium sorbate.

H.R. 1610—A bill to reduce until December 31, 2008, the duty on sorbic acid.

H.R. 1698—A bill to suspend temporarily the duty on certain capers preserved by vinegar or acetic acid.

H.R. 1699—A bill to suspend temporarily the duty on certain pepperoncini prepared or preserved otherwise than by vinegar or acetic acid.

H.R. 1700—A bill to suspend temporarily the duty on certain capers preserved by vinegar or acetic acid.

H.R. 1701—A bill to suspend temporarily the duty on certain pepperoncini prepared or preserved by vinegar or acetic acid in concentrations at 0.5% or greater.

H.R. 1702—A bill to suspend temporarily the duty on certain pepperoncini prepared or preserved otherwise than by vinegar or acetic acid in concentrations less than 0.5%.

H.R. 1715—A bill to reduce until December 31, 2008, the duty on PDCB (p-Dichlorobenzene).

H.R. 1724—A bill to extend the temporary suspension of duty on Asulam sodium salt.

H.R. 1725—A bill to suspend temporarily the duty on Chloral.

H.R. 1726—A bill to suspend temporarily the duty on Imidacloprid Technical.

H.R. 1727—A bill to suspend temporarily the duty on Triadimefon.

H.R. 1732—A bill to suspend temporarily the duty on Liquid Crystal Device (LCD) panel assemblies for use in LCD projection type televisions.

H.R. 1733—A bill to suspend temporarily the duty on electron guns for high definition cathode ray tubes (CRTs).

H.R. 1734—A bill to suspend temporarily the duty on Liquid Crystal Device (LCD) panel assemblies for use in LCD direct view televisions.

H.R. 1752—A bill to suspend temporarily the duty on Polyethylene HE2591.

H.R. 1775—A bill to suspend temporarily the duty on Thiacloprid.

H.R. 1777—A bill to suspend temporarily the duty on Pyrimethanil.

H.R. 1778—A bill to suspend temporarily the duty on Foramsulfuron.

H.R. 1779—A bill to suspend temporarily the duty on Fenamidone.

H.R. 1780—A bill to suspend temporarily the duty on Cyclanilide Technical.

H.R. 1781—A bill to suspend temporarily the duty on para-Benzoquinone.

H.R. 1782—A bill to suspend temporarily the duty on palmitic acid.

H.R. 1783—A bill to suspend temporarily the duty on Anisidine.

H.R. 1784—A bill to suspend temporarily the duty on Tetrakis.

H.R. 1785—A bill to suspend temporarily the duty on 2,4-Xylidine.

H.R. 1786—A bill to suspend temporarily the duty on CroTonaldehyde.

H.R. 1787—A bill to suspend temporarily the duty on t-Butyl acrylate.

H.R. 1788—A bill to suspend temporarily the duty on propyl gallate.

H.R. 1799—A bill to extend the duty suspension on ORGASOL polyamide powders.

H.R. 1802—A bill to amend the Tariff Act of 1930 with respect to the marking of imported live bovine animals.

H.R. 1813—A bill to require the payment of interest on amounts owed by the United States pursuant to the reliquidation of certain entries under the Tariff Suspension and Trade Act of 2000 and the Miscellaneous Trade and Technical Corrections Act of 2004.

H.R. 1824—A bill to provide for the duty-free entry of certain tramway cars and associated spare parts for use by the city of Portland, Oregon.

H.R. 1826—A bill to extend the temporary suspension of duty on 2-Chlorobenzyl chloride.

H.R. 1827—A bill to extend the temporary suspension of duty on (Z)-(1RS,3RS)-3-(2-Chloro-3,3,3-trifluro-1-propenyl)-2,2- imethylcyclopropanecarboxylic acid.

H.R. 1828—A bill to extend the temporary suspension of duty on (S)-Alpha-Hydroxy-3-phenoxybenzeneacetonitrile.

H.R. 1829—A bill to suspend temporarily the duty on Butanedioic acid, dimethyl ester, polymer with 4-hydroxy-2,2,6,6,-tetramethyl-1-piperidineethanol.

H.R. 1830—A bill to extend the duty suspension on 3-amino-2-(sulfato-ethyl sulfonyl) ethyl benzamide.

H.R. 1831—A bill to extend the duty suspension on MUB 738 INT.

H.R. 1832—A bill to extend the suspension of duty on 5-amino-N-(2-hydroxyethyl)-2,3-xylenesulfonamide.

H.R. 1833—A bill to suspend temporarily the duty on mixtures of 1,3,5-Triazine-2,4,6-triamine,N,N-[1,2-ethane-diyl-bis [[[4,6-bis-[butyl (1,2,2,6,6-pentamethyl-4-piperidinyl)amino]-1,3,5-triazine-2-yl] imino]-3,1-propanediyl]] bis[N,N-dibutyl-N,N-bis(1,2,2,6,6-pentamethyl-4-piperidinyl)- and Butanedioic acid, dimethylester polymer with 4-hyroxy-2,2,6,6-tetramethyl-1-piperdine ethanol.

H.R. 1838—A bill to suspend temporarily the duty on 3-Cyclohexene-1-carboxylic acid, 6-[(di-2-propenylamino)carbonyl]-,(1R,6R)-rel-, reaction products with pentafluoroiodoethane-tetrefluoroethylene telomer, ammonium salt.

H.R. 1839—A bill to suspend temporarily the duty on Glycine, N,N-Bis[2-hydroxy-3-(2-propenyloxy)propyl]-, monosodium salt, reaction products with ammonium hydroxide and pentafluoroiodoethane-tetrafluoroethylyene telomer.

H.R. 1840—A bill to suspend temporarily the duty on 5,5-bis[(y,w-perfluoroC4-20alkylthio)methyl]-2-hydroxy-2-oxo -1,3,2-dioxaphosphorinane, ammonium salt and 2,2-bis[(y,w-perfluoroC4-20alkylthio)methyl]-3-hydroxy proply phosphate, di-ammonium salt and Di-[2,2-bis[(y,w-perfluoroC4-20alkylthio)methyl]]-3-hydroxy proply phosphate, ammonium salt and 2,2-bis[(y,w-perfluoroC4-20alkylthio)methyl]-1,3-di-(dihydro genphosphate)-propane, tetra-ammonium salt.

H.R. 1841—A bill to suspend temporarily the duty on 1(3H)-Isobenzofuranone, 3,3-bis(2-methyl-1-octyl-1H-indol-3-yl).

H.R. 1842—A bill to suspend temporarily the duty on a mixture of Poly[[6-[(1,1,3,3-tetramethylbutyl)amino]-1,3,5-triazine-2,4 diyl][(2,2,6,6-tetramethyl-4-piperidinyl)imino]-1,6-exanediy [(2,2,6,6-tetramethyl-4-piperidinyl)imino]]) and Bis(2,2,6,6,-tetramethyl-4-piperidyl)sebaceate.

H.R. 1843—A bill to suspend temporarily the duty on MCPA.

H.R. 1844—A bill to suspend temporarily the duty on Bronate Advanced.

H.R. 1845—A bill to suspend temporarily the duty on Bromoxynil Octanoate Tech.

H.R. 1846—A bill to suspend temporarily the duty on Bromoxynil MEO.

H.R. 1848—A bill to suspend temporarily the duty on certain bitumen-coated polyethylene sleeves specifically designed to protect in-ground wood posts.

H.R. 1851—A bill to suspend temporarily the duty on nylon woolpacks used to package wool.

H.R. 1854—A bill to suspend temporarily the duty on magnesium zinc aluminum hydroxide carbonate hydrate.

H.R. 1855—A bill to extend the temporary suspension of duty on magnesium aluminum hydroxide carbonate hydrate.

H.R. 1856—A bill to extend the temporary duty suspension on C12-18 Alkenes.

H.R. 1857—A bill to extend the temporary suspension of duty on polytetramethylene ether glycol.

H.R. 1858—A bill to extend the temporary suspension of duty on cis-3-Hexen-1-ol.

H.R. 1877—A bill to suspend temporarily the duty on hydraulic control units.

H.R. 1878—A bill to suspend temporarily the duty on shield asy-steering gear.

H.R. 1880—A bill to suspend temporarily the duty on 2,4-Dichloroaniline.

H.R. 1881—A bill to suspend temporarily the duty on 2-Acetylbutyrolactone.

H.R. 1882—A bill to suspend temporarily the duty on Alkylketone.

H.R. 1883—A bill to reduce temporarily the duty on Cyfluthrin (Baythroid).

H.R. 1884—A bill to suspend temporarily the duty on Beta-cyfluthrin.

H.R. 1885—A bill to suspend temporarily the duty on Deltamethrin.

H.R. 1886—A bill to suspend temporarily the duty on cyclopropane-1,1-dicarboxylic acid, dimethyl ester.

H.R. 1887—A bill to suspend temporarily the duty on Spiroxamine.

H.R. 1888—A bill to suspend temporarily the duty on Spiromesifen.

H.R. 1889—A bill to extend the temporary suspension of duty on Ethoprop.
H.R. 1890—A bill to suspend temporarily the duty on Propiconazole.
H.R. 1891—A bill to suspend temporarily the duty on 4-Chlorobenzaldehyde.
H.R. 1892—A bill to suspend temporarily the duty on Oxadiazon.
H.R. 1893—A bill to extend the temporary suspension of duty on 2-Chlorobenzyl chloride.
H.R. 1894—A bill to suspend temporarily the duty on NaHP.
H.R. 1895—A bill to extend the temporary suspension of duty on Iprodione.
H.R. 1896—A bill to extend the temporary suspension of duty on Fosetyl-Al.
H.R. 1897—A bill to extend the temporary suspension of duty on Flufenacet (FOE Hydroxy).
H.R. 1899—A bill to suspend temporarily the duty on Phosphorus Thiochloride.
H.R. 1900—A bill to extend the temporary suspension of duty on Methanol, sodium salt.
H.R. 1901—A bill to reduce temporarily the duty on Trifloxystrobin.
H.R. 1903—A bill to suspend temporarily the duty on phosphoric acid, lanthanum salt, cerium terbium-doped.
H.R. 1904—A bill to suspend temporarily the duty on lutetium oxide.
H.R. 1906—A bill to reduce temporarily the duty on ACM.
H.R. 1907—A bill to suspend temporarily the duty on Permethrin.
H.R. 1908—A bill to suspend temporarily the duty on Thidiazuron.
H.R. 1909—A bill to suspend temporarily the duty on Flutolanil.
H.R. 1910—A bill to suspend temporarily the duty on Resmethrin.
H.R. 1911—A bill to reduce temporarily the duty on Clothianidin.
H.R. 1913—A bill to suspend temporarily the duty on ACRYPET UT100.
H.R. 1914—A bill to amend the Harmonized Tariff Schedule of the United States to provide that the calculation of the duty imposed on imported cherries that are provisionally preserved does not include the weight of the preservative materials of the cherries.
H.R. 1915—A bill to reduce temporarily the duty on diethyl ketone.
H.R. 1916—A bill to suspend temporarily the duty on 5-Amino-1-[2,6-dichloro-4-(tri fluoro methyl)phenyl]-4-[(1R,S)-(tri fluoromethyl)-sulfiny] -1H-pyrazole-3-carbonitrile.
H.R. 1917—A bill to suspend temporarily the duty on 2,3-Pyridinedicarboxylic acid.
H.R. 1918—A bill to suspend temporarily the duty on 80% 2,3-Dimethylbutylnitrile and 20% toluene.
H.R. 1919—A bill to suspend temporarily the duty on 2,3-Quinolinedicarboxylic acid.
H.R. 1920—A bill to suspend temporarily the duty on p-Chlorophenylglycine.
H.R. 1921—A bill to suspend temporarily the duty on 3,5-Difluoroaniline.
H.R. 1922—A bill to suspend temporarily the duty on 1,3-Dibromo-5-dimethyl-hydantoin.
H.R. 1923—A bill to suspend temporarily the duty on booster and master cyl asy-brake.
H.R. 1924—A bill to reduce temporarily the duty on certain transaxles.
H.R. 1925—A bill to suspend temporarily the duty on converter asy.
H.R. 1926—A bill to suspend temporarily the duty on module and bracket asy-power steering.
H.R. 1927—A bill to reduce temporarily the duty on unit asy-battery hi volt.
H.R. 1928—A bill to allow the entry of certain United States-origin defense articles into bonded warehouses and foreign-trade zones.
H.R. 1934—A bill to suspend temporarily the duty on certain vinyl chloride-vinyl acetate copolymers.
H.R. 1935—A bill to suspend temporarily the duty on Clomazone.
H.R. 1936—A bill to suspend temporarily the duty on Flonicamid.
H.R. 1937—A bill to suspend temporarily the duty on Bifenthrin.
H.R. 1938—A bill to suspend temporarily the duty on Chloropivaloyl Chloride.
H.R. 1941—A bill to reduce temporarily the duty on triethylene glycol bis[3-(3-tert-butyl-4-hydroxy-5-methyl phenyl)propionate].
H.R. 1944—A bill to reduce temporarily the duty on certain articles of natural cork.
H.R. 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.
H.R. 1947—A bill to provide for the reliquidation of certain entries of soundspa clock radios.
H.R. 1948—A bill to provide for the reliquidation of certain entries of aquascape relaxation bubble lights.

H.R. 1949—A bill to provide for the reliquidation of certain entries of candles.
H.R. 1959—A bill to suspend temporarily the duty on glyoxylic acid.
H.R. 1962—A bill to suspend temporarily the duty on cyclopentanone.
H.R. 1963—A bill to reduce temporarily the duty on Mesotrione Technical.
H.R. 1964—A bill to suspend temporarily the duty on Malonic Acid-Dinitrile 50% NMP.
H.R. 1965—A bill to suspend temporarily the duty on formulations of NOA 466510.
H.R. 1966—A bill to suspend temporarily the duty on DEMBB Distilled-ISO Tank.
H.R. 1967—A bill to extend the suspension of duty on Acid black 172.
H.R. 1968—A bill to extend the suspension of duty on a certain chemical mixture.
H.R. 1969—A bill to suspend temporarily the duty on N,N'-hexane-1,6-diylbis(3-(3,5-di-tert-butyl-4-hydroxyphenyl opionamide)).
H.R. 1970—A bill to suspend temporarily the duty on 2-Naphthalenesulfonic acid, 7,7" - [(2-methyl-1,5-pentanediyl) bis[imino(6-fluoro-1,3,5-triazine-4,2-diyl) imino]] bis[4-hydroxy-3-[(4-methoxy sulfophenyl) azo]-, potassium sodium salt.
H.R. 1971—A bill to suspend temporarily the duty on 2,7-Naphthalenedisulfonic acid,5-[[4-chloro-6-[[3-[[8-[4-fluoro-6- (methylphenylamino)-1,3,5-triazin-2-yl]amino]-1-hydroxy-3,6- disulfo-2-naphthalenyl]azo]-4-sulfophenyl],amino]-1,3,5-tria in-2-yl]amino]-4-hydroxy-3-[(1-sulfo-2-naphthalenyl)azo]-sodium salt.
H.R. 1976—A bill to suspend temporarily the duty on Gamma Methyl Ionone.
H.R. 1978—A bill to suspend temporarily the duty on certain acrylic fiber tow.
H.R. 1979—A bill to suspend temporarily the duty on certain acrylic fiber tow.
H.R. 1990—A bill to suspend temporarily the duty on MKH 6561 Isocyanate.
H.R. 1991—A bill to extend the temporary suspension of duty with respect to Diclofop methyl.
H.R. 1992—A bill to suspend temporarily the duty on endosulfan.
H.R. 1997—A bill to amend the Harmonized Tariff Schedule of the United States to clarify the article description relating to certain monchrome glass envelopes, and for other purposes.
H.R. 2003—A bill to amend the Harmonized Tariff Schedule of the United States to remove the 100 percent tariff imposed on Roquefort cheese.
H.R. 2009—A bill to suspend temporarily the duty on Tetraconazole.
H.R. 2010—A bill to reduce temporarily the duty on M-Alcohol.
H.R. 2015—A bill to suspend temporarily the duty on certain machines for use in the assembly of motorcycle wheels.
H.R. 2016—A bill to suspend temporarily the duty on glass bulbs, designed for sprinkler systems and other release devices, filled with liquid that expands and breaks the bulb at a release temperature predetermined by the manufacturer.
H.R. 2019—A bill to suspend temporarily the duty on Pyriproxyfen.
H.R. 2020—A bill to suspend temporarily the duty on Uniconazole.
H.R. 2021—A bill to suspend temporarily the duty on Acephate.
H.R. 2022—A bill to suspend temporarily the duty on Bispyribac-sodium.
H.R. 2023—A bill to suspend temporarily the duty on Dinotefuran.
H.R. 2024—A bill to suspend temporarily the duty on Etoxazole.
H.R. 2025—A bill to extend the suspension of duty on Fenpropathrin.
H.R. 2026—A bill to suspend temporarily the duty on Bioallethrin.
H.R. 2027—A bill to suspend temporarily the duty on Deltamethrin.
H.R. 2028—A bill to suspend temporarily the duty on Esbioallethrin.
H.R. 2029—A bill to suspend temporarily the duty on Resmethrin.
H.R. 2030—A bill to suspend temporarily the duty on Tetramethrin.
H.R. 2031—A bill to suspend temporarily the duty on Tralemethrin.
H.R. 2032—A bill to suspend temporarily the duty on flumiclorac pentyl ester.
H.R. 2033—A bill to suspend temporarily the duty on Flumioxazin.
H.R. 2056—A bill to reduce temporarily the duty on palm fatty acid distillate.
H.R. 2077—A bill to suspend temporarily the duty on Garenoxacin mesylate.
H.R. 2078—A bill to suspend temporarily the duty on butylated hydroxyethylbenzene.
H.R. 2079—A bill to extend the temporary duty suspension on Ezetimibe.
H.R. 2080—A bill to extend the duty suspension on Methidathion Technical.
H.R. 2081—A bill to extend the duty suspension on difenoconazole.
H.R. 2082—A bill to extend the duty suspension on Lambda-Cyhalothrin.
H.R. 2083—A bill to extend the duty suspension on cyprodinil.
H.R. 2084—A bill to extend the duty suspension on Wakil XL.
H.R. 2085—A bill to extend the duty suspension on Azoxystrobin Technical.
H.R. 2086—A bill to extend the duty suspension on mucochloric acid.

H.R. 2091—A bill to suspend temporarily the duty on 4-Methoxy-2-methyldiphenylamine.
H.R. 2093—A bill to suspend temporarily the duty on 2-Methylhydroquinone.
H.R. 2094—A bill to suspend temporarily the duty on thionyl chloride.
H.R. 2095—A bill to suspend temporarily the duty on 1-fluoro-2-nitro benzene.
H.R. 2096—A bill to extend the temporary suspension of duty on certain high tenacity rayon filament yarn.
H.R. 2114—A bill to suspend temporarily the duty on 1-propene-2-methyl homopolymer.
H.R. 2115—A bill to suspend temporarily the duty on Acronal-S-600.
H.R. 2116—A bill to suspend temporarily the duty on Lucirin TPO.
H.R. 2117—A bill to suspend temporarily the duty on Astacin Finish PUM.
H.R. 2118—A bill to suspend temporarily the duty on Sokalan PG IME.
H.R. 2119—A bill to suspend temporarily the duty on Paliotol Yellow L 2140 HD.
H.R. 2120—A bill to suspend temporarily the duty on Lycopene 10% 25kg 4G 3.
H.R. 2128—A bill to suspend temporarily the duty on cosmetic bags with a flexible outer surface of reinforced or laminated polyvinyl chloride (PVC).
H.R. 2135—A bill to suspend temporarily the duty on Mixtures of methyl 4-iodo-2-[3-(4-methoxy-6-methyl-1,3,5-triazin-2-yl)ureidosul fonyl]benzoate, sodium salt (Iodosulfuron) and application adjuvants.
H.R. 2136—A bill to suspend temporarily the duty on Ethyl 4,5-dihydro-5,5-diphenyl-1,2-oxazole-3-carboxylate (Isoxadifen-ethyl).
H.R. 2137—A bill to suspend temporarily the duty on 5-Cyclopropyl-4-(2-methylsulfonyl-4-trifluoromethylbenxoyl)i soxazole (Isoxaflutole).
H.R. 2138—A bill to suspend temporarily the duty on Mixtures of methyl 2-(4,5-dihydro-4-methyl-5-oxo-3-propoxy-1H-1,2,4-triazol-1-y l)carboxamidosulfonylbenzoate; sodium (4,5-dihydro-4-methyl-5-oxo-3-propoxy-1H-1,2,4-triazol-1-ylc arbonyl) (2-methoxy carbonylphenylsulfonyl) azanide (Propoxycarbazone), methyl 4-iodo-2-[3-(4-methoxy-6-methyl-1,3,5-triazin-2-yl) ureidosulfonyl[benzoate, sodium salt (Mesosulfuron-methyl), and application adjuvants.
H.R. 2139—A bill to suspend temporarily the duty on Methyl 2-[(4,6-dimethoxypyrimidin-2-ylcarbamoyl)sulfamoyl]-G6a-(met hanesulfonamido)-p-toluate whether or not mixed with application adjuvants.
H.R. 2140—A bill to suspend temporarily the duty on Mixtures of N,N-dimethyl-2[3-(4,6-dimethoxypyrimidin-2-yl)ureidosulfonyl]-4-formylaminobenzamide (Foramsulfuron), methyl 4-iodo-2-[3-(4-methoxy-6-methyl-1,3,5-triazin-2-yl)ureidosul fonyl]benzoate, sodium salt (Iodosulfuron), and application adjuvants.
H.R. 2141—A bill to suspend temporarily the duty on 1-Propanone, 2-methyl-1-[4- (methylthio)phenyl]-2-(4- morpholinyl)-(9cl).
H.R. 2142—A bill to suspend temporarily the duty on 1,6-Hexanediamine, N,N'-bis(2,2,6,6-tetramethyl-4- piperidinyl)-, polymer with 2,4,6-trichloro-1,3,5-triazine, reaction products with N-butyl- 1-butanamine and N-butyl- 2,2,6,6-tetramethyl-4-piperidinamine.
H.R. 2143—A bill to suspend temporarily the duty on Anthra[2,1,9-mna]naphth[2,3-h]acridine-5,10,15(16H)-trione,3 -[(9,10-dihydro-9,10-dioxo-1-anthracenyl)amino].
H.R. 2144—A bill to suspend temporarily the duty on Cobaltate(1-), bis[3-[[1-(3-chlorophenyl)-4,5-dihydro-3- methyl-5-(oxo-.kappa.O)-1H- pyrazol-4-yl]azo-.kappa.N1[-4-. (hydroxy-.kappa.O)- benzenesulfonamid- ato(2-)]-, sodium.
H.R. 2145—A bill to suspend temporarily the duty on TMQ.
H.R. 2146—A bill to suspend temporarily the duty on 4-ADPA.
H.R. 2147—A bill to suspend temporarily the duty on Vulkanox MB (MBI).
H.R. 2148—A bill to suspend temporarily the duty on Vulcuren UPKA 1988.
H.R. 2149—A bill to suspend temporarily the duty on Vullcanox 4010 NA/LG.
H.R. 2150—A bill to suspend temporarily the duty on Vulkazon AFS/LG.
H.R. 2151—A bill to suspend temporarily the duty on Vulkacit MOZ/LG and Vulkacit MOZ/SG.
H.R. 2152—A bill to suspend temporarily the duty on Vulkanox ZMB-2/C5.
H.R. 2153—A bill to suspend temporarily the duty on Anisic Aldehyde.
H.R. 2154—A bill to suspend temporarily the duty on Methyl Salicylate.
H.R. 2155—A bill to suspend temporarily the duty on 1,2 Octanediol.
H.R. 2156—A bill to extend the duty suspension on 2, 2-Dimethyl-3-(3-methylphenyl) propanal.
H.R. 2157—A bill to extend the duty suspension on p-Methylacetophenone.
H.R. 2158—A bill to extend the duty suspension on Cyclohexadec-8-en-l-one.
H.R. 2159—A bill to extend the duty suspension on methanol, sodium salt.

H.R. 2160—A bill to extend the duty suspension on 2-Phenylbenzimidazole-5-sulfonic acid.
H.R. 2161—A bill to suspend temporarily the duty on 1,2 Pentanediol.
H.R. 2162—A bill to extend the duty suspension on Methyl cinnamate.
H.R. 2163—A bill to extend the duty suspension on cyclohexanol.
H.R. 2164—A bill to extend the duty suspension on Thymol.
H.R. 2165—A bill to extend the duty suspension on Menthyl anthranilate.
H.R. 2166—A bill to suspend temporarily the duty on Frescolat MGA.
H.R. 2167—A bill to extend the duty suspension on o-tert-Butylcyclohexanol.
H.R. 2168—A bill to extend the duty suspension on 5-Methyl-2-(methylethyl) cyclohexyl-2-hydroxypropanoate.
H.R. 2169—A bill to suspend temporarily the duty on Cohedur RL.
H.R. 2170—A bill to extend the duty suspension on isothiocyanate.
H.R. 2171—A bill to extend the temporary suspension of duty on Vulkalent E/C.
H.R. 2172—A bill to suspend temporarily the duty on MBTS.
H.R. 2173—A bill to suspend temporarily the duty on 1,2 Hexanediol.
H.R. 2175—A bill to suspend temporarily the duty on certain rayon staple fibers.
H.R. 2179—A bill to extend the suspension of duty on hexanedioic acid, polymer with 1,3-benzenedimethanamine.
H.R. 2198—A bill to suspend temporarily the duty on fixed ratio speed changers for truck-mounted concrete mixers.
H.R. 2212—A bill to extend the temporary suspension of duty on Trinexapac-Ethyl.
H.R. 2213—A bill to suspend temporarily the duty on formulations of Prosulfuron.
H.R. 2214—A bill to suspend temporarily the duty on formulations of triasulfuron and dicamba.
H.R. 2215—A bill to suspend temporarily the duty on formulations of triasulfuron.
H.R. 2220—A bill to suspend temporarily the duty on Pontamine Green 2B.
H.R. 2221—A bill to extend the duty suspension on Mesamoll.
H.R. 2222—A bill to suspend temporarily the duty on Bayderm Bottom 10 UD.
H.R. 2223—A bill to suspend temporarily the duty on Bayderm Finish DLH.
H.R. 2224—A bill to suspend temporarily the duty on Levagard DMPP.
H.R. 2225—A bill to suspend temporarily the duty on Bayderm Bottom DLV.
H.R. 2226—A bill to suspend temporarily the duty on certain ethylene-vinyl acetate copolymers.
H.R. 2227—A bill to extend the duty suspension on ortho-phenylphenol.
H.R. 2228—A bill to extend the duty suspension on Iminodisuccinate.
H.R. 2241—A bill to suspend temporarily the duty on Lewatit.
H.R. 2242—A bill to extend the temporary suspension of duty on certain ion-exchange resins.
H.R. 2243—A bill to extend the temporary suspension of duty on 2,6 Dichlorotoluene.
H.R. 2244—A bill to suspend temporarily the duty on Glyoxylic Acid 50%.
H.R. 2245—A bill to suspend temporarily the duty on paraChlorophenol.
H.R. 2246—A bill to suspend temporarily the duty on allethrin.
H.R. 2252—A bill to suspend temporarily the duty on Permethrin.
H.R. 2253—A bill to suspend temporarily the duty on Cyazofamid.
H.R. 2254—A bill to suspend temporarily the duty on Cypermethrin.
H.R. 2255—A bill to suspend temporarily the duty on on Flonicamid.
H.R. 2256—A bill to suspend temporarily the duty on Zeta-Cypermethrin.
H.R. 2260—A bill to suspend temporarily the duty on certain adsorbent resins.
H.R. 2261—A bill to extend the suspension of duty on a certain ion exchange resin.
H.R. 2262—A bill to extend the suspension of duty on a certain ion exchange resin.
H.R. 2263—A bill to extend the suspension of duty on 10'10' Oxybisphenoxarsine.
H.R. 2264—A bill to extend the suspension of duty on Copper 8-quinolinolate.
H.R. 2265—A bill to extend the suspension of duty on a certain ion exchange resin.
H.R. 2266—A bill to extend the suspension of duty on a certain ion exchange resin.
H.R. 2267—A bill to suspend temporarily the duty on a certain ion exchange resin powder.
H.R. 2268—A bill to suspend temporarily the duty on a certain ion exchange resin powder. H.R. 2269—A bill to extend the temporary suspension of duty on he-

lium. H.R. 2270—A bill to suspend temporarily the duty on Desmodur E 14. H.R. 2271—A bill to suspend temporarily the duty on Desmodur, IL.

H.R. 2272—A bill to suspend temporarily the duty on Desmodur HL.

H.R. 2273—A bill to suspend temporarily the duty on Desmodur VP LS 2253.

H.R. 2274—A bill to suspend temporarily the duty on Desmodur R-E.

H.R. 2275—A bill to suspend temporarily the duty on Walocel MW 3000 PFV.

H.R. 2276—A bill to suspend temporarily the duty on TSME.

H.R. 2277—A bill to suspend temporarily the duty on Walocel VP-M 20660.

H.R. 2278—A bill to suspend temporarily the duty on Citral.

H.R. 2279—A bill to suspend temporarily the duty on XAMA 2.

H.R. 2280—A bill to suspend temporarily the duty on XAMA 7.

H.R. 2281—A bill to suspend temporarily the duty on 2-Ethylhexyl 4-methoxycinnamate.

H.R. 2282—A bill to suspend temporarily the duty on 4-Methoxybenzaldehyde.

H.R. 2285—A bill to extend the temporary suspension of duty on certain bags for toys.

H.R. 2286—A bill to extend the temporary suspension of duty on cases for certain children's products.

H.R. 2287—A bill to extend the temporary suspension of duty on certain children's products.

H.R. 2288—A bill to suspend temporarily the duty on certain cases for toys.

H.R. 2289—A bill to suspend temporarily the duty on certain cases for toys.

H.R. 2302—A bill to extend the suspension of duty on certain 12-volt batteries.

H.R. 2303—A bill to extend the suspension of duty on certain light absorbing photo dyes.

H.R. 2309—A bill to suspend temporarily the duty on Aniline 2.5 Di-sulphonic Acid.

H.R. 2310—A bill to suspend temporarily the duty on 1,4-Benzenedicarboxylic Acid, Polymer With N,N-Bis (2-Aminoethyl) -1,2-Ethanediamine, Cyclized, Me Sulfates.

H.R. 2311—A bill to extend the temporary suspension of duty on certain high-performance loudspeakers.

H.R. 2312—A bill to extend the temporary suspension of duty on certain R-core transformers.

H.R. 2313—A bill to suspend temporarily the duty on Sulfur Blue 7.

H.R. 2314—A bill to extend the suspension of duty on reduced vat blue 43.

H.R. 2315—A bill to extend the suspension of duty on sulfur black 1.

H.R. 2316—A bill to suspend temporarily the duty on Diresul Brown GN Liquid Crude.

H.R. 2336—A bill to extend the temporary suspension of duty on DMSIP.

H.R. 2371—A bill to extend the temporary suspension of duty on bitolylene diisocyanate (TODI).

H.R. 2372—A bill to extend the temporary suspension of duty on 2-(Methoxycarbonyl)benzylsulfonamide.

H.R. 2373—A bill to suspend temporarily the duty on 2-chlorobenzenesulfonamide.

H.R. 2374—A bill to suspend temporarily the duty on ESPI.

H.R. 2375—A bill to suspend temporarily the duty on CMBSI.

H.R. 2377—A bill to reduce temporarily the duty on certain automotive catalytic converter mats.

H.R. 2380—A bill to suspend temporarily the duty on gemifloxacin, gemifloxacin mesylate, and gemifloxacin mesylate sesquihydrate.

H.R. 2381—A bill to reduce temporarily the duty on PHBA.

H.R. 2382—A bill to suspend temporarily the duty on Butralin.

H.R. 2394—A bill to suspend temporarily the duty on Spirodiclofen.

H.R. 2395—A bill to suspend temporarily the duty on Propamocarb HCL (Previcur).

H.R. 2396—A bill to extend the temporary suspension of duty on Imidacloprid pesticides.

H.R. 2397—A bill to extend the temporary suspension of duty on Trifloxystrobin.

H.R. 2402—A bill to suspend temporarily the duty on Desmodur, IL.

H.R. 2403—A bill to suspend temporarily the duty on Chloroacetone.

H.R. 2404—A bill to reduce temporarily the duty on IPN (Isophthalonitrile).

H.R. 2405—A bill to suspend temporarily the duty on NOA 466510 Technical.

H.R. 2406—A bill to suspend temporarily the duty on Hexythiazox Technical.

H.R. 2424—A bill to extend the temporary suspension of duty on 11-Aminoundecanoic acid.

H.R. 2430—A bill to extend the duty reduction on ethylene/tetrafluoroethylene copolymer (ETFE).
H.R. 2431—A bill to suspend temporarily the duty on 1,10 Diaminodecane.
H.R. 2432—A bill to reduce temporarily the duty on Crelan (self-blocked cycloaliphatic polyuretdione).
H.R. 2433—A bill to suspend temporarily the duty on Aspirin.
H.R. 2434—A bill to extend the suspension of duty on Baytron C-R.
H.R. 2435—A bill to extend the suspension of duty on Baytron M.
H.R. 2436—A bill to temporarily suspend the duty on Baytron and Baytron P.
H.R. 2437—A bill to suspend temporarily the duty on Desmodur BL XP 2468.
H.R. 2438—A bill to suspend temporarily the duty on Hydrazine Hydrate.
H.R. 2439—A bill to suspend temporarily the duty on certain flame retardant plasticizers.
H.R. 2440—A bill to suspend temporarily the duty on Baypure DS.
H.R. 2441—A bill to extend the temporary suspension of duty on BOPA.
H.R. 2442—A bill to extend the temporary suspension of duty on Thionyl Chloride.
H.R. 2443—A bill to extend the temporary suspension of duty on Ammonium Bifluoride.
H.R. 2444—A bill to suspend temporarily the duty on Bayowet C4.
H.R. 2445—A bill to extend the temporary suspension of duty on PHBA.
H.R. 2446—A bill to extend the temporary suspension of duty on Mondur P.
H.R. 2447—A bill to extend the temporary suspension of duty on P-Phenylphenol.
H.R. 2448—A bill to extend the temporary suspension of duty on DEMT.
H.R. 2449—A bill to extend the temporary suspension of duty on Bayowet FT-248.
H.R. 2450—A bill to extend the temporary suspension of duty on PNTOSA.
H.R. 2451—A bill to extend the temporary suspension of duty on Baysilone Fluid.
H.R. 2452—A bill to reduce temporarily the duty on Desmodur.
H.R. 2453—A bill to suspend temporarily the duty on Desmodur HL.
H.R. 2454—A bill to suspend temporarily the duty on D-Mannose.
H.R. 2459—A bill to extend the temporary suspension of duty on yarn of combed Kashmir (cashmere) and yarn of camel hair.
H.R. 2460—A bill to extend the temporary suspension of duty on certain yarn of carded Kashmir (cashmere).
H.R. 2461—A bill to extend the temporary suspension of duty on certain Kashmir (cashmere) hair.
H.R. 2462—A bill to suspend temporarily the duty on certain camel hair.
H.R. 2463—A bill to suspend temporarily the duty on waste of camel hair.
H.R. 2464—A bill to suspend temporarily the duty on certain camel hair.
H.R. 2465—A bill to suspend temporarily the duty on woven fabric containing vicuna hair.
H.R. 2466—A bill to suspend temporarily the duty on certain camel hair.
H.R. 2467—A bill to extend the temporary suspension of duty on fine animal hair of Kashmir (cashmere) goats.
H.R. 2468—A bill to suspend temporarily the duty on noils of camel hair.
H.R. 2469—A bill to extend temporarily the duty suspension on certain semi-manufactured forms of gold.
H.R. 2473—A bill to amend the Tariff Act of 1930 relating to determining the all-others rate in antidumping cases.
H.R. 2477—A bill to suspend temporarily the duty on certain bicycle parts.
H.R. 2478—A bill to suspend temporarily the duty on certain bicycle parts.
H.R. 2479—A bill to suspend temporarily the duty on certain bicycle parts.
H.R. 2480—A bill to suspend temporarily the duty on certain bicycle parts.
H.R. 2481—A bill to suspend temporarily the duty on certain bicycle parts.
H.R. 2482—A bill to suspend temporarily the duty on certain bicycle parts.
H.R. 2483—A bill to suspend temporarily the duty on certain bicycle parts.
H.R. 2492—A bill to extend the temporary suspension of duty on Crotonic Acid.
H.R. 2493—A bill to suspend temporarily the duty on Glyoxylic Acid 50.
H.R. 2494—A bill to suspend temporarily the duty on Chloroacetic acid, ethyl ester.
H.R. 2495—A bill to suspend temporarily the duty on Chloroacetic Acid, Sodium Salt.
H.R. 2496—A bill to extend the temporary suspension of duty on 3,6,9-Trioxaundecanedioic acid.
H.R. 2497—A bill to extend the temporary suspension of duty on Acetamiprid Technical.

H.R. 2501—A bill to suspend temporarily the duty on Cyclopropanecarboxylic acid, 3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-imethyl-,(2-meth yl(1,1-biphenyl) -3-yl)methyl ester, (z).

H.R. 2502—A bill to suspend temporarily the duty on Phosphonic acid (2-chloroethyl) (Ethephon).

H.R. 2503—A bill to suspend the duty on Iprodione.

H.R. 2504—A bill to suspend temporarily the duty on 2-Cyclohexen-1-one, and 2-(1-(((3-chloro-2- propenyl)oxy)imino) propyl)-5-(2-(ethylthio) propyl)-3-hydroxy (Clethodim).

H.R. 2505—A bill to suspend temporarily the duty on Benzoic acid, o- and ((3-(4,6-dimethyl-2-pyrimidinyl)-ureido)sulfonyl)-, methylester (Sulfometuron methyl).

H.R. 2506—A bill to suspend temporarily the duty on Cyclopropanecarboxylic acid, 3-(2,2-Dichlorovinyl)-2,2-dimethyl-, 3-phenoxybenzyl ester, (+-)-,(cis,trans).

H.R. 2507—A bill to suspend temporarily the duty on Benzoic acid, 2-(((((4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino)- carbonyl)amino)sulfonyl)-, methyl ester.

H.R. 2522—A bill to extend the suspension of duty on filter blue green photo dye.

H.R. 2523—A bill to extend the suspension of duty on ammonium bifluoride.

H.R. 2524—A bill to extend the suspension of duty on Bis(4-fluorophenyl) methanone.

H.R. 2532—A bill to suspend temporarily the duty on urea, polymer with formaldehyde (Pergopak).

H.R. 2535—A bill to extend the suspension of duty on polymethine photo-sensitizing dyes.

H.R. 2536—A bill to extend the suspension of duty on 4-Hexylresorcinol.

H.R. 2537—A bill to extend the suspension of duty on certain organic pigments and dyes.

H.R. 2538—A bill to extend the temporary suspension of duty on a certain ultraviolet dye.

H.R. 2539—A bill to extend the temporary suspension of duty on certain cathode-ray tubes.

H.R. 2540—A bill to extend the temporary suspension of duty on certain cathode ray tubes.

H.R. 2542—A bill to suspend temporarily the duty on low expansion laboratory glass.

H.R. 2543—A bill to suspend temporarily the duty on stoppers, lids, and other closures.

H.R. 2544—A bill to extend the temporary suspension of duty on benzoic acid, 2-amino-4-[[(2,5-dichlorophenyl)amino]carbonyl]-, methyl ester.

H.R. 2545—A bill to suspend temporarily the duty on Acid Blue 80.

H.R. 2546—A bill to extend the temporary suspension of duty on Pigment Red 185.

H.R. 2547—A bill to extend the temporary suspension of duty on Solvent blue 124.

H.R. 2548—A bill to suspend temporarily the duty on Pigment Brown 25.

H.R. 2549—A bill to suspend temporarily the duty on Pigment Red 188.

H.R. 2550—A bill to extend the temporary suspension of duty on Pigment Yellow 154.

H.R. 2551—A bill to extend the temporary suspension of duty on Pigment Yellow 175.

H.R. 2552—A bill to suspend temporarily the duty on Pigment Yellow 213.

H.R. 2556—A bill to suspend temporarily the duty on air freshener electric devices with warmer units.

H.R. 2557—A bill to suspend temporarily the duty on air freshener electric devices.

H.R. 2573—A bill to suspend temporarily the duty on cuprammonium rayon yarn.

H.R. 2575—A bill to extend the suspension of duty on Methyl thioglycolate (MTG).

H.R. 2576—A bill to extend the suspension of duty on Ethyl pyruvate.

H.R. 2577—A bill to suspend temporarily the duty on Indoxacarb.

H.R. 2578—A bill to suspend temporarily the duty on Dimethyl carbonate.

H.R. 2579—A bill to suspend temporarily the duty on 5-Chloro-1-indanone (EK179).

H.R. 2580—A bill to extend the suspension of duty on Methyl-4-trifluoromethoxyphenyl-N-(chlorocarbonyl) carbamate (DPX-KL540).

H.R. 2581—A bill to suspend temporarily the duty on the formulated product containing mixtures of the active ingredients 5-methyl-5-(4-phenoxyphenyl)-3-(phenylamino)-2,4-oxazolidi edione] (famoxadone) and 2-cyano-N-

[(ethylamino)carbonyl]-2-(methoxyimino)acetamide (cymoxanil) and application adjuvants.

H.R. 2582—A bill to suspend temporarily the duty on ortho nitro aniline.

H.R. 2583—A bill to suspend temporarily the duty on Decanedioic acid, Bis(2,2,6,6,-tetramethyl-4-piperidinyl).

H.R. 2584—A bill to suspend temporarily the duty on Benzoxazole, 2,2-(2,5-thiophenediyl)bis(5-(1,1-dimethylethyl).

H.R. 2585—A bill to extend the suspension of duty on 2methyl-4,6-bis[(octylthio)methyl]phenol.

H.R. 2586—A bill to extend the suspension of duty on 4-[[4,6-bis(octylthio)-1,3,5-traizine-2-yl]amino]-2,6-bis(1,1-dimethylethyl)phenol.

H.R. 2589—A bill to extend the temporary suspension of duty on certain filament yarns.

H.R. 2590—A bill to extend the temporary suspension of duty on certain filament yarns.

H.R. 2591—A bill to suspend temporarily the duty on certain yarn (other than sewing thread) of synthetic staple fibers, not put up for retail sale.

H.R. 2596—A bill to suspend temporarily the duty on modified steel leaf spring leaves.

H.R. 2597—A bill to suspend temporarily the duty on suspension system stabilizer bars.

H.R. 2598—A bill to suspend temporarily the duty on steel leaf spring leaves.

H.R. 2602—A bill to reduce temporarily the duty on Formulations of Azoxystrobin.

H.R. 2603—A bill to reduce temporarily the duty on Cypermethrin Technical.

H.R. 2604—A bill to reduce temporarily the duty on Formulations of Pinoxaden/Cloquintocet-Mexyl.

H.R. 2605—A bill to suspend temporarily the duty on Formulations of Difenoconazole/Mefenoxam.

H.R. 2606—A bill to suspend temporarily the duty on Fludioxonil Technical.

H.R. 2607—A bill to suspend temporarily the duty on Formulations of Clodinafop-propargyl.

H.R. 2608—A bill to suspend temporarily the duty on Emamectin Benzoate Technical.

H.R. 2609—A bill to suspend temporarily the duty on Cloquintocet Technical.

H.R. 2610—A bill to suspend temporarily the duty on Mefenoxam Technical.

H.R. 2611—A bill to suspend temporarily the duty on Cyproconazole Technical.

H.R. 2612—A bill to suspend temporarily the duty on Pinoxaden Technical.

H.R. 2613—A bill to suspend temporarily the duty on Formulations of Tralkoxydim.

H.R. 2614—A bill to suspend temporarily the duty on Propiconazole Technical - Bulk.

H.R. 2615—A bill to suspend temporarily the duty on Permethrin Technical.

H.R. 2624—A bill to suspend temporarily the duty on certain items and to reduce temporarily the duty on certain items.

H.R. 2632—A bill to suspend temporarily the duty on 3,3'-Dichlorobenzidine Dihydrochloride.

H.R. 2675—A bill to suspend temporarily the duty on TMC114.

H.R. 2676—A bill to suspend temporarily the duty on certain chemicals and chemical mixtures.

H.R. 2677—A bill to suspend temporarily the duty on certain chemicals.

H.R. 2678—A bill to suspend temporarily the duty on mixtures of (1A1B1A)-(cis and trans)-1-(2-(2,4-Dichlorophenyl)- 4-propyl-1,3-dioxalan-2-yl)methyl)-1H-1,2,4-triazole (Propiconazole) and application adjuvants.

H.R. 2696—A bill to suspend temporarily the duty on 9,10-Anthracenedione, 1,8-dihydroxy-4-nitro-5-(phenylamino).

H.R. 2697—A bill to suspend temporarily the duty on Chromate(2-), [2,4-dihydro-4-[[2-(hydroxy-kO)-4-nitrophenyl]azo-kN1]-5-met hyl-3H-pyrazol-3-onato(2-)-kO3][3-[[4,5-dihydro-3-methyl-1-(4-methylphenyl)-5-(oxo-kO)-1H-pyrazol-4-yl]azo-kN1]-4-(hydro xy-kO)-5-nitrobenzenesulfonato(3-)]-, disodium.

H.R. 2698—A bill to suspend temporarily the duty on 9,10-Anthracenedione, 1,8-bis(phenylthio).

H.R. 2699—A bill to suspend temporarily the duty on 2,7-Naphthalenedisulfonic acid, 4-amino-3,6-bis[[5-[[4-chloro-6-[methyl[2-(meth ylamino)-2-oxoethyl]amino]-1,3,5-tria zin-2-yl]amino]-2-sulfophenyl]azo]-5 -hydroxy-, lithium potassium sodium salt.

H.R. 2700—A bill to suspend temporarily the duty on 2-Naphthalenesulfonic acid, 7-[(5-chloro-2,6-difluoro-4-pyrimidinyl)amino]-4-hydroxy-3-[(4-methoxy-2-sulfophenyl)azo]-, sodium salt.

H.R. 2701—A bill to suspend temporarily the duty on 2,7-Naphthalenedisulfonic acid, 4-amino-5-hydroxy-6-[[2-methoxy-5-[[2-(sulfo oxy)ethyl]sulfonyl]phenyl]azo]-3-[[4-[[2-(sulfooxy)ethyl]sulfonyl]phenyl]azo -, tetrasodium salt.

H.R. 2702—A bill to suspend temporarily the duty on 2,7-Naphthalenedisulfonic acid, 4-amino-5-hydroxy-3,6-bis[[4-[[2-(sulfooxy)ethyl]sulfonyl]phenyl]azo]-, tetra sodium salt.

H.R. 2703—A bill to suspend temporarily the duty on [2,2'-Bi-1H-indole]-3,3 -diol-, potassium sodium salt.

H.R. 2704—A bill to suspend temporarily the duty on 3-Pyridinecarbonitrile, 5-[(2-cyano-4-nitrophenyl)azo]-2-[[2-(2-hydroxyethoxy)ethyl] amino]-4-methyl-6-(phenylamino).

H.R. 2705—A bill to suspend temporarily the duty on Acetic acid, cyano[3-[(6-methoxy-2-benzothiazolyl)amino]-1H-isoindol-1-yl idene]-, pentyl ester.

H.R. 2706—A bill to suspend temporarily the duty on Benzenesulfonic acid, [(9,10-dihydro-9,10-dioxo-1,4-anthracenediyl)bis[imino[3-(2- methylpropyl)-3,1-propanediyl]]]bis-, disodium salt.

H.R. 2707—A bill to suspend temporarily the duty on Acetic acid, [4-(2,6-dihydro-2,6-dioxo-7-phenylbenzo[1,2-b:4,5-b']difuran -3-yl)phenoxy]-, 2-ethoxyethyl ester.

H.R. 2708—A bill to suspend temporarily the duty on Benzo[1,2-b:4,5-b]difuran-2,6-dione, 3-phenyl-7-(4-propoxyphenyl).

H.R. 2709—A bill to suspend temporarily the duty on Ethanesulfonic acid, 2-[[[2,5-dichloro-4-[(2-methyl-1H-indol-3-yl)azo]phenyl]sulfonyl]amino]-, monoso dium salt.

H.R. 2710—A bill to suspend temporarily the duty on 2,7-Naphthalenedisulfonic acid, 5-[[4-chloro-6-[(3-sulfophenyl)amino]-1,3,5-triazin-2-yl]amino] -4-hydroxy-3- [[4-[[2-(sulfooxy)ethyl]sulfonyl]phenyl]azo],sodium salt.

H.R. 2711—A bill to suspend temporarily the duty on 1,3,6-Naphthalenetrisulfonic acid, 7-[[2-[(aminocarbonyl)amino]-4-[[4-[4-[2-[[4-[[3-[(aminocarb onyl)amino]-4-[(3,6,8-trisulfo-2-naphthalenyl)azo]phenyl]amio] -6-chloro-1,3,5-triazin-2-yl]amino]ethyl]-1-piperazinyl]- - chloro-1,3,5-triazin-2-yl]amino]phenyl]azo]-, lithium potassium sodium salt).

H.R. 2712—A bill to suspend temporarily the duty on 9,10-Anthracenedione, 1,8-dihydroxy-4-nitro-5-(phenylamino).

H.R. 2713—A bill to suspend temporarily the duty on 2-Anthracenesulfonic acid, 4-[[3-(acetylamino)phenyl]amino]-1-amino-9,10-dihydro-9,10-d ioxo-, monosodium salt.

H.R. 2714—A bill to suspend temporarily the duty on Acetic acid, [4-[2,6-dihydro-2,6-dioxo-7-(4-propoxyphenyl)benzo[1,2-b:4,5 -b]difuran-3-yl]phenoxy]-, 2-ethoxyethyl ester.

H.R. 2764—A bill to extend the temporary suspension of duty on 2 methyl 5 nitrobenzenesulfonic acid.

H.R. 2765—A bill to extend the temporary suspension of duty on p-cresidine sulfonic acid.

H.R. 2766—A bill to extend the temporary suspension of duty on 2,4 disulfo benzaldehyde.

H.R. 2767—A bill to extend the temporary suspension of duty on n ethyl N (3-sulfobenzyl) aniline.

H.R. 2768—A bill to extend the temporary suspension of duty on m-hydroxy benzaldehyde.

H.R. 2769—A bill to extend the temporary suspension of duty on 2 amino 5 sulfobenzoic acid.

H.R. 2770—A bill to extend the temporary suspension of duty on 2 amino 6 nitro phenol 4 sulfonic acid.

H.R. 2771—A bill to extend the temporary suspension of duty on 2,5 bis [(1,3 dioxobutyl) amino] benzene sulfonic acid.

H.R. 2772—A bill to extend the temporary suspension of duty on 4 [(4 amino phenyl) azo] benzene sulfonic acid, monosodium salt.

H.R. 2773—A bill to suspend temporarily the duty on oleoresin turmeric.

H.R. 2774—A bill to suspend temporarily the duty on basic yellow 40 chloride based.

H.R. 2775—A bill to suspend temporarily the duty on direct yellow 119.

H.R. 2776—A bill to extend the temporary suspension of duty on 4 [(4 amino phenyl) azo] benzene sulfonic acid.

H.R. 2777—A bill to suspend temporarily the duty on oleoresin paprika.

H.R. 2781—A bill to suspend temporarily the duty on Naugard 412S.

H.R. 2782—A bill to suspend temporarily the duty on Triacetonamine.
H.R. 2783—A bill to suspend temporarily the duty on Ipconazole.
H.R. 2784—A bill to suspend temporarily the duty on Omite Tech.
H.R. 2785—A bill to suspend temporarily the duty on Pantera Technical.
H.R. 2806—A bill to reduce temporarily the duty on Paraquat Dichloride.
H.R. 2809—A bill to temporarily suspend the duty on Carfentrazone.
H.R. 2810—A bill to extend the temporary suspension of duty on 3-(Ethylsulfonly)-2-pyridinesulfonamide.
H.R. 2816—A bill to provide duty-free treatment for certain tuna.
H.R. 2817—A bill to suspend temporarily the duty on certain basketballs.
H.R. 2818—A bill to suspend temporarily the duty on certain leather basketballs.
H.R. 2819—A bill to suspend temporarily the duty on certain rubber basketballs.
H.R. 2820—A bill to suspend temporarily the duty on certain volleyballs.
H.R. 2821—A bill to suspend temporarily the duty on certain synthetic basketballs.
H.R. 2825—A bill to suspend temporarily the duty on 4-Chloro-3-[[3-(4-methoxyphenyl)-1,3-dioxopropyl-]amino]-do decyl ester.
H.R. 2833—A bill to suspend temporarily the duty on NaMBT.
H.R. 2836—A bill to extend the duty suspension on Allyl isosulfocynate.
H.R. 2837—A bill to extend the duty suspension on sodium methylate powder.
H.R. 2838—A bill to extend the duty suspension on Trimethyl cyclo hexanol.
H.R 2839—A bill to extend the duty suspension on 2,2-Dimethyl-3-(3-methylphenyl)proponal.
H.R. 2845—A bill to suspend temporarily the duty on certain plain woven fabrics.
H.R. 2847—A bill to extend the suspension of duty on 1,3-Benzenedicarboxamide, N, N-Bis (2,2,6,6-tetramethyl-4-piperidinyl)-.
H.R. 2848—A bill to extend the suspension of duty on reaction products of phosphorus trichloride with 1,1-biphenyl and 2,4-bis(1,1-dimethylethyl)phenol.
H.R. 2849—A bill to extend the suspension of duty on preparations based on ethanediamide, N-(2-ethoxyphenyl)-N-(4-isodecylphenyl)-.
H.R. 2850—A bill to extend the suspension of duty on 1-Acetyl-4-(3-dodecyl-2,5-dioxo-1-pyrrolidinyl)-2,2,6,6-tetramethylpiperidine.
H.R. 2851—A bill to extend the suspension of duty on 3-Dodecyl-1-(2,2,6,6-tetramethyl-4-piperidinyl)-2,5-pyrrolid nedione.
H.R. 2852—A bill to extend the suspension of duty on Tetraacetylethylenediamine.
H.R. 2853—A bill to extend the suspension of duty on sodium petroleum sulfonate.
H.R. 2854—A bill to extend the suspension of duty on esters and sodium esters of parahydroxybenzoic acid.
H.R. 2855—A bill to extend the suspension of duty on Oxalic Anilide.
H.R. 2856—A bill to suspend temporarily the duty on certain inflatable balls.
H.R. 2879—A bill to suspend temporarily the duty on P Tolulene Sulfonyl Chloride.
H.R. 2880—A bill to suspend temporarily the duty on 3,3 Dichlorobenzidine Dihydrochloride.
H.R. 2881—A bill to suspend temporarily the duty on p-Amino Benzamide.
H.R. 2882—A bill to suspend temporarily the duty on p-Cloro Aniline.
H.R. 2883—A bill to suspend temporarily the duty on p-Chloro-o-Nitro Aniline.
H.R. 2884—A bill to suspend temporarily the duty on 3 Chloro-4-Methylanine.
H.R. 2885—A bill to suspend temporarily the duty on Acetoacet-o-Chloro Anilide.
H.R. 2886—A bill to suspend temporarily the duty on Acetoacet-p-Anisidine.
H.R. 2887—A bill to suspend temporarily the duty on Alpha Oxy Naphthoic Acid.
H.R. 2888—A bill to suspend temporarily the duty on Pigment Green 7 Crude, not ready for use as a pigment.
H.R. 2889—A bill to suspend temporarily the duty on 1,3 Diamino Isoindoline.
H.R. 2890—A bill to suspend temporarily the duty on 1,8 Naphthalamide.
H.R. 2896—A bill to remove the 100 percent tariff imposed on roasted chicory and other roasted coffee substitutes.
H.R. 2906—A bill to suspend temporarily the duty on linuron.
H.R. 2907—A bill to suspend temporarily the duty on N,N-dimethylpiperidinium chloride.
H.R. 2908—A bill to suspend temporarily the duty on diuron.
H.R. 2909—A bill to reduce temporarily the duty on formulated product KROVAR IDF.
H.R. 2913—A bill to suspend temporarily the duty on Thiamethoxam Technical.
H.R. 2914—A bill to suspend temporarily the duty on Triasulfuron Technical.

H.R. 2915—A bill to suspend temporarily the duty on Brodifacoum Technical.

H.R. 2916—A bill to suspend temporarily the duty on Pymetrozine Technical.

H.R. 2917—A bill to suspend temporarily the duty on formulations of Thiamethoxam, Difenoconazole, Fludioxinil, and Mefenoxam.

H.R. 2918—A bill to suspend temporarily the duty on Trifloxysulfuron-Sodium Technical.

H.R. 2919—A bill to suspend temporarily the duty on diisopropyl succinate.

H.R. 2920—A bill to suspend temporarily the duty on 2,4-di-tert-butyl-6-(5-chlorobenzotriazol-2-yl)phenol.

H.R. 2921—A bill to suspend temporarily the duty on a mixture of Butanedioic acid, dimethylester, polymer with 4-hydroxy-2,2,6,6-tetramethyl-1-piperidine ethanol and 1,3,5-Triazine-2,4,6-triamine,N,N'"-[1,2-ethane-diyl-bis [[[4,6-bis-[butyl (1,2,2,6,6-pentamethyl-4-piperidinyl)amino]-1,3,5-triazine-2 yl] imino]-3,1-propanediyl]] bis[N',N"- dibutyl-N',N"-bis(1,2,2,6,6-pentamethyl-4-piperidinyl)-.

H.R. 2922—A bill to suspend temporarily the duty on 4-chloro-benzonitrile.

H.R. 2954—A bill to suspend temporarily the duty on manganese metal flake containing at least 99.5 percent by weight of manganese.

H.R. 2972—A bill to suspend temporarily the duty on 2-Naphthalenesulfonic acid, 6-[(2,4-diaminophenyl)azo]-3-[[4-[[4-[[7-[(2,4-diaminophenyl azo]-1-hydroxy-3-sulfo-2-naphthalenyl]azo]phenyl]amino]-3- sulfophenyl]azo]-4-hydroxy-, trisodium salt.

H.R. 2973—A bill to suspend temporarily the duty on Methylene Bis-Benzotriazolyl Tetramethylbutylphenol.

H.R. 2974—A bill to suspend temporarily the duty on Bis-Ethylhexyloxyphenol Methoxyphenol Triazine.

H.R. 2975—A bill to suspend temporarily the duty on Benzenesulfonic acid, 2,2-[(1-methyl-1,2-ethanediyl)bis[imino(6-fluoro-1,3,5-tria ine-4,2-diyl)imino[2-[(aminocarbonyl)amino]-4,1-phenylene]az]]bis[5-[(4-sulfophenyl)azo]-, sodium salt.

H.R. 2976—A bill to suspend temporarily the duty on Chromate(2-), [3-(hydroxy-.kappa.O)-4-[[2-(hydroxy-.kappa.O)-1-naphthale yl]azo-.kappa.N2]-1-naphthalenesulfonato(3-)][1-[[2-(hydroxy kappa.O)-5-[4-methoxyphenyl)azo]phenyl]azo-.kappa.N2]-2-nap hthalenolato(2-)-.kappa.O]-, disodium.

H.R. 2996—A bill to provide for the liquidation or reliquidation of certain drawback claims.

H.R. 2997—A bill to provide for the liquidation or reliquidation of certain drawback claims.

H.R. 2998—A bill to provide for the liquidation or reliquidation of certain drawback claims.

H.R. 2999—A bill to provide for the liquidation or reliquidation of certain drawback claims.

H.R. 3001—A bill to provide for the liquidation or reliquidation of certain drawback claims.

H.R. 3002—A bill to provide for the liquidation or reliquidation of certain drawback claims.

H.R. 3015—A bill to suspend temporarily the duty on 2 benzylthio-3-ethyl sulfonyl pyridine.

H.R. 3016—A bill to extend the temporary suspension of duty on carbamic acid.

H.R. 3023—A bill to suspend temporarily the duty on 2-amino-4-methoxy-6-methyl-1,3,5-triazine.

H.R. 3024—A bill to suspend temporarily the duty on formulated products containing mixtures of the active ingredient 2-chloro-N-[[(4-methoxy-6-methyl-1,3,5-triazin-2yl) amino]carbonyl] benzenesulfonamide and application adjuvants.

H.R. 3025—A bill to extend the suspension of duty on Esfenvalerate.

H.R. 3026—A bill to suspend temporarily the duty on 2-methyl-4-methoxy-6-methylamino-1,3,5-triazine.

H.R. 3027—A bill to reduce temporarily the duty on mixtures of sodium-2-chloro-6-[(4,6 dimethoxypyrimidin-2-yl)thio]benzoate and application adjuvants (pyrithiobac-sodium).

H.R. 3028—A bill to extend the suspension of duty on Methyl 2-[[[[[4-(dimethylamino)-6-(2,2,2-trifluoroethoxy)-1,3,5-tri zin-2-yl]-amino]carbonyl]amino]sulfonyl]-3-methylbenzoate and application adjuvants.

H.R. 3029—A bill to extend the suspension of duty on Benzyl carbazate.

H.R. 3030—A bill to suspend temporarily the duty on mixtures of N-[[(4,6-dimethoxypyrimidin-2-yl)amino]carbonyl]-3-(ethylsul onyl)-2-pyridinesulfonamide and application adjuvants.

H.R. 3033—A bill to extend the temporary reduction in duty on certain educational devices.

H.R. 3066—A bill to amend the Harmonized Tariff Schedule of the United States to provide separate tariff categories for certain tractor body parts.
H.R. 3067—A bill to amend the Harmonized Tariff Schedule of the United States to provide a new subheading for certain log forwarders used as motor vehicles for the transport of goods for duty-free treatment consistent with other agricultural use log handling equipment.
H.R. 3089—A bill to suspend temporarily the duty on 1,3-bis(4-Aminophenoxy)benzene (RODA).
H.R. 3090—A bill to suspend temporarily the duty on Pyromellitic Dianhydride (PMDA).
H.R. 3091—A bill to extend temporarily the duty suspension on 4,4'-Oxydiphthalic Anhydride (ODPA).
H.R. 3092—A bill to reduce temporarily the duty on 4,4'-Oxydianiline (ODA).
H.R. 3093—A bill to suspend temporarily the duty on 3,3',4,4'-Biphenyltetracarboxylic Dianhydride (BPDA).
H.R. 3105—A bill to suspend temporarily the duty on certain aramid chopped fiber.
H.R. 3106—A bill to suspend temporarily the duty on fabric woven with certain continuous filament wholly nylon type-66 textured yarns.
H.R. 3112—A bill to suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
H.R. 3113—A bill to suspend temporarily the duty on certain cups, with or without saucers, of porcelain or china.
H.R. 3114—A bill to suspend temporarily the duty on certain flags.
H.R. 3115—A bill to suspend temporarily the duty on certain clocks.
H.R. 3116—A bill to suspend temporarily the duty on certain glass articles.
H.R. 3117—A bill to suspend temporarily the duty on certain glass articles of lead crystal.
H.R. 3118—A bill to suspend temporarily the duty on certain music boxes.
H.R. 3119—A bill to extend the temporary suspension of duty on carfentazone ethyl.
H.R. 3120—A bill to suspend temporarily the duty on certain cores used in remanufacture.
H.R. 3126—A bill to provide for the liquidation or reliquidation of certain entries.
H.R. 3210—A bill to extend the temporary suspension of duty on 3-Amino-5-mercapto-1,2,4-triazole.
H.R. 3211—A bill to extend the temporary suspension of duty on 748+-bromo-748+-nitrostyrene.
H.R. 3212—A bill to the temporary suspension of duty on asulam sodium salt.
H.R. 3213—A bill to extend the temporary suspension of duty on diiodomethyl-p-tolylsulfone.
H.R. 3214—A bill to extend the temporary suspension of duty on 2-Propenoic acid, polymer with diethenylbenzene.
H.R. 3215—A bill to suspend temporarily the duty on ADTP.
H.R. 3216—A bill to extend the temporary suspension of duty on Benfluralin.
H.R. 3217—A bill to suspend temporarily the duty on DCBTF.
H.R. 3218—A bill to suspend temporarily the duty on Noviflumuron.
H.R. 3219—A bill to reduce temporarily the duty on Cyhalofop.
H.R. 3220—A bill to suspend temporarily the duty on parachlorobenzotrifluoride.
H.R. 3221—A bill to suspend temporarily the duty on mixtures of insecticide.
H.R. 3222—A bill to extend the temporary suspension of duty on 2,6-Dichloro aniline.
H.R. 3223—A bill to suspend temporarily the duty on a certain mixture of fungicide.
H.R. 3224—A bill to suspend temporarily the duty on 1,2-Benzisothiazol-3(2H)-one (9CI).
H.R. 3225—A bill to extend the temporary suspension of duty on 3, 4-Dichlorobenzonitrile.
H.R. 3226—A bill to suspend temporarily the duty on Styrene, ar-ethyl-, polymer with divinylbenzene and styrene (6CI) beads with low ash.
H.R. 3227—A bill to suspend temporarily the duty on 1,2-Benzisothiazol-3(2H)-one (9CI).
H.R. 3228—A bill to extend the temporary suspension of duty on DEPCT.
H.R. 3229—A bill to reduce temporarily the duty on trifluralin.
H.R. 3230—A bill to extend the temporary suspension of duty on 1,2-Benzenedicarboxaldehyde.
H.R. 3231—A bill to extend the temporary suspension of duty on DMDS.
H.R. 3232—A bill to suspend temporarily the duty on mixtures of fungicide.

H.R. 3233—A bill to extend the suspension of duty on trifluralin.
H.R. 3234—A bill to extend the temporary suspension of duty on 1,3-Dimethyl-2-imidazolidinone.
H.R. 3235—A bill to suspend temporarily the duty on 2-Methyl-4-chlorophenoxyacetic acid.
H.R. 3236—A bill to reduce temporarily the duty on certain mixtures of florasulam.
H.R. 3237—A bill to suspend temporarily the duty on 2-Methyl-4-chlorophenoxyacetic acid, di-methylamine salt.
H.R. 3238—A bill to extend the temporary suspension of duty on isoxaben.
H.R. 3239—A bill to extend the temporary suspension of duty on halofenozide.
H.R. 3240—A bill to extend the temporary suspension of duty on methoxyfenozide.
H.R. 3241—A bill to reduce temporarily the duty on myclobutanil.
H.R. 3242—A bill to extend the temporary suspension of duty on propanil.
H.R. 3243—A bill to extend the temporary suspension of duty on propiconazole.
H.R. 3244—A bill to extend the temporary suspension of duty on quinoline.
H.R. 3245—A bill to reduce temporarily the duty on fluoroxypyr.
H.R. 3246—A bill to extend the temporary suspension of duty on tebufenozide.
H.R. 3247—A bill to extend the temporary suspension of duty on mixed isomers of 1,3-dichloropropene.
H.R. 3257—A bill to suspend temporarily the duty on biaxially oriented polypropylene dielectric film.
H.R. 3258—A bill to suspend temporarily the duty on biaxially oriented polyethylene terephthalate dielectric film.
H.R. 3285—A bill to suspend temporarily the duty on charge control agent 7.
H.R. 3286—A bill to suspend temporarily the duty on pro-jet black 820 liquid feed.
H.R. 3287—A bill to suspend temporarily the duty on pro-jet cyan 1 RO feed and pro-jet cyan OF 1 RO feed.
H.R. 3288—A bill to suspend temporarily the duty on pro-jet magenta M700.
H.R. 3289—A bill to suspend temporarily the duty on pro-jet jellow 1G Stage.
H.R. 3290—A bill to suspend temporarily the duty on pro-jet fast black 287 NA liquid feed.
H.R. 3291—A bill to suspend temporarily the duty on pro-jet fast black 286 stage.
H.R. 3292—A bill to extend the duty suspension on pro-jet black 263 stage.
H.R. 3293—A bill to suspend temporarily the duty on pro-jet cyan 485 stage.
H.R. 3294—A bill to suspend temporarily the duty on pro-jet black 661 liquid feed.
H.R. 3295—A bill to suspend temporarily the duty on pro-jet cyan 854 liquid feed.
H.R. 3303—A bill to suspend temporarily the deposit requirements and assessments of countervailing duties and antidumping duties on imports of CHQ wire rod covered by certain countervailing and antidumping duty orders.
H.R. 3308—A bill to suspend temporarily the duty on erasers.
H.R. 3309—A bill to suspend temporarily the duty on nail clippers.
H.R. 3310—A bill to suspend temporarily the duty on artificial flowers.
H.R. 3311—A bill to suspend temporarily the duty on electrically operated pencil sharpeners.
H.R. 3340—A bill to suspend temporarily the duty on Phenmedipham.
H.R. 3341—A bill to suspend tempoarily the duty on Desmedipham.
H.R. 3342—A bill to extend the temporary suspension of duty on ethofumesate.
H.R. 3343—A bill to extend the temporary suspension of duty on Nemacur VL.
H.R. 3346—A bill to suspend temporarily the duty on 2 benzylthio-3-ethyl sulfonyl pyridine.
H.R. 3353—A bill to provide for the liquidation or reliquidation of certain drawback claims relating to petroleum products.
H.R. 3354—A bill to provide for the liquidation or reliquidation of certain drawback claims relating to petroleum products.
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H.R. 3356—A bill to provide for the liquidation or reliquidation of certain drawback claims relating to petroleum products.
H.R. 3357—A bill to provide for the liquidation or reliquidation of certain drawback claims relating to petroleum products.
H.R. 3363—A bill to amend the Tariff Act of 1930 relating to drawback.
H.R. 3371—A bill to provide for the liquidation or reliquidation of certain entries.

H.R. 3386—A bill to suspend temporarily the duty on certain footwear with open toes or heels.

H.R. 3387—A bill to suspend temporarily the duty on certain work footwear.

H.R. 3388—A bill to suspend temporarily the duty on certain women's footwear.

H.R. 3389—A bill to suspend temporarily the duty on certain footwear for girls.

H.R. 3390—A bill to suspend temporarily the duty on certain protective footwear.

H.R. 3391—A bill to suspend temporarily the duty on certain athletic footwear.

H.R. 3392—A bill to suspend temporarily the duty on certain footwear with open toes or heels.

H.R. 3393—A bill to suspend temporarily the duty on certain work footwear.

H.R. 3394—A bill to suspend temporarily the duty on certain work footwear.

H.R. 3395—A bill to suspend temporarily the duty on certain work footwear.

H.R. 3414—A bill to suspend temporarily the duty on certain refracting and reflecting telescopes.

H.R. 3415—A bill to suspend temporarily the duty on mixture of magnesium peroxide and magnesium oxide containing 35 percent magnesium peroxide.

H.R. 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements. Note: All Committee advisories and news releases are available on the World Wide Web at*http://waysandmeans.house.gov*.

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON TRADE

FOR IMMEDIATE RELEASE
August 05, 2005
No. TR–3 Revised

CONTACT: (202) 225–6649

Shaw Announces Additional Bills on Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills

Congressman E. Clay Shaw, Jr. (R–FL), Chairman, Subcommittee on Trade of the Committee on Ways and Means, today announced the addition of the following bills to the July 25 request for written comments on technical corrections to U.S. trade laws and miscellaneous duty suspension bills.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit for the record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, *http://waysandmeans.house.gov*, select "*109th Congress*" from the menu entitled, "*Hearing Archives*" (*http://waysandmeans.house.gov/Hearings.asp?congress=17*). Select the request for written comments for which you would like to submit, and click on the link entitled, "*Click here to provide a submission for the record*." Once you have followed the online instructions, completing all informational forms and clicking "submit" on the final page, an email will be sent to the address which you supply confirming your interest in providing a submission for the record. You ***MUST REPLY*** to the email and ***ATTACH*** your submission as a Word or WordPerfect document, in compliance with the formatting requirements listed below, by close of business **Friday, September 2, 2005.** inally, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225–1721.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any supplementary materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission or supplementary item not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be provided in Word or WordPerfect format and MUST NOT exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. All submissions must include a list of all clients, persons, and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone and fax numbers of each witness.

SUMMARY OF BILLS:

H.R. 915—A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan.

H.R. 3176—A bill to amend the Caribbean Basin Economic Recovery Act to provide preferential treatment for certain apparel articles that are both cut (or knit to shape) and sewn or otherwise assembled in one or more beneficiary countries under that Act from fabrics or yarn not widely available in commercial quantities.

H.R 3483—A bill to suspend temporarily the duty on certain footwear.

H.R. 3484—A bill to suspend temporarily the duty on certain athletic footwear.

H.R. 3485—A bill to suspend temporarily the duty on certain work footwear.

H.R. 3486—A bill to suspend temporarily the duty on certain footwear for men.

H.R. 3487—A bill to suspend temporarily the duty on certain rubber or plastic footwear.

H.R. 3488—A bill to suspend temporarily the duty on certain work footwear.

H.R. 3489—A bill to suspend temporarily the duty on certain athletic footwear.

H.R. 3490—A bill to suspend temporarily the duty on certain rubber or plastic footwear.

H.R. 3491—A bill to suspend temporarily the duty on certain leather footwear.

H.R. 3527—A bill to extend the temporary suspension of duty on Ethalfluralin.

H.R. 3528—A bill to extend the temporary suspension of duty on Diphenyl sulfide.

H.R. 3529—A bill to extend the temporary suspension of duty on 4,4-Dimethoxy-2-butanone.

H.R. 3530—A bill to extend the temporary suspension of duty on Methacrylamide.

H.R. 3531—A bill to extend the temporary suspension of duty on Fenbuconazole.

H.R. 3609—A bill to extend the temporary suspension of duty on thiophanate methyl and application adjuvants.

H.R. 3610—A bill to suspend temporarily the duty on zinc dimethyldithiocarbamate.

H.R. 3611—A bill to extend the temporary suspension of duty on thiophanate methyl.

H.R. 3635—A bill to suspend temporarily the duty on certain sardines in oil, in airtight containers, neither skinned nor boned.

H.R. 3636—A bill to suspend temporarily the duty on prepared or preserved oysters, not smoked.

Note: All Committee advisories and news releases are available on the World Wide Web at *http://waysandmeans.house.gov*.

Buckman Laboratories, Inc.
Memphis, Tennessee 38108
August 30, 2005

House Ways and Means Committee
Subcommittee on Trade
United States Congress
Washington, DC

It has been brought to our attention that *109th Congress H.R. 178* would suspend until 2014 the import duty on dichloroethyl ether ("DCEE"). Buckman Laboratories, Inc. ("Buckman"), the principal U.S. manufacturer of DCEE, opposes eliminating the import duties currently imposed on that product.

Buckman is a privately held international specialty chemicals manufacturer headquartered in Memphis, Tennessee. Founded in 1945, today Buckman is a leading manufacturer of specialty chemicals for aqueous industrial systems. The company works with industries worldwide to provide advanced chemical treatment technologies and extensive technical service to solve complex industrial problems. Buckman produces over 500 different products and employs over 1,300 people in over 70 countries.

Buckman produces DCEE principally for further manufacturing use as a component of water treatment products. DCEE is one of the two raw materials used to make a water treatment product called WSCP, a microbicide that controls algae growth in swimming pools or in cooling towers. Buckman also uses DCEE as a manufacturing component of other Buckman recreational and industrial water treatment products, domestically and internationally, and sells DCEE directly both as a stand-alone solvent product and as an intermediate for other reactive products to the oilfield drilling and equipment business. Other *known* international DCEE producers include Maruzen, a Japanese company. Maruzen manufactures DCEE in Japan utilizing a different, potentially more volatile acyclic ether manufacturing process, and exports it to the U.S. as a solvent, principally to the U.S. oilfield business through U.S. distributors. Importers have paid a duty on DCEE produced overseas for many years, as confirmed by the U.S. Court of Appeals for the Federal Circuit on May 12, 2004 (E.T. Horn v. U.S., case #03–1363).

Having lost an attempt to reduce the import duty to 1% from 5.6%, the proponents of H.R. 178 (introduced last January at the peak of the most recent increase in oil prices) simply desire greater profits by eliminating the import duty altogether. There is no evidence eliminating the import tariff on DCEE will rectify a product shortage (as none exists), lower wholesale DCEE prices to U.S. firms, or lower retail prices for refined petroleum products or water treatment products. To the contrary, H.R. 178 likely will increase profits and purchases of DCEE from non-U.S. manufacturers, increase incentives to locate or relocate DCEE plants overseas, decrease domestic profits for U.S. manufacturers, and reduce U.S. plant production levels with related effects on needs for domestic skilled labor.

Buckman manufactures more than five million pounds annually of DCEE at its Cadet, Missouri, plant. DCEE has been one of our company's most important products for more than thirty years. Buckman has invested more than $27 million in our Cadet manufacturing facilities to date. Over thirty full-time employees work at Cadet's highly efficient, very competitive plant. Importantly, the Cadet facility has sufficient capacity to produce up to 12.5 million pounds of DCEE annually for domestic and international markets if demand materializes.

Buckman prefers to be able to continue (and increase) domestic production of DCEE. We submit that the proponents can make no compelling case for eliminating the import tariff on DCEE at this time since virtually all domestic and a majority of international demand may be met by current U.S. production facilities, and since international manufacturers compete vigorously to stabilize wholesale prices.

Buckman would be delighted to show any member of Congress or its staff our state-of-the-art manufacturing facilities and illustrate the issues raised by H.R. 178. Please contact Rocky Stevens (573–438–8101) or Chuck Brandenburg (901–272–8339) to arrange a tour.

Please contact us immediately should further questions arise.

Sincerely,

Charles D. Brandenburg
President

William C. Pitcher
Vice President-Legal, General Counsel

Statement of Erik O. Autor, National Retail Federation

The National Retail Federation (NRF) submits this statement to the Ways and Means Trade Subcommittee to express the U.S. retail industry's strong opposition H.R. 445, which is under consideration for inclusion in a miscellaneous trade bill. NRF is the world's largest retail trade association with membership that comprises all retail formats and channels of distribution including department, specialty, discount, catalog, Internet and independent stores as well as the industry's key trading partners of retail goods and services. NRF represents an industry with more than 1.5 million U.S. retail establishments, more than 23 million employees—about one in five American workers—and 2004 sales of $4.1 trillion. As the industry umbrella group, NRF also represents more than 100 state, national and international retail associations.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture

Finally, NRF opposes H.R. 445, regardless of how it is packaged (as stand-alone legislation or as part of another piece of legislation). The measure is unworkable and unnecessary. It is unworkable because not all furniture can bear a sign that is at least 70 square centimeters in size that would not significantly detract from the appearance of the furniture (e.g., wall mirrors).

It is unnecessary because U.S. law and regulation already require that a country of origin designation be placed on a product in such a way that the final consumer can readily ascertain its origin. Currently labels are typically placed at the back of a piece of furniture or inside it (for example, within a dresser drawer) to provide the information to the consumer without marring its appearance and diminishing its value.

Retail companies' long experience with customer relations has consistently shown that the vast majority of consumers do not care about the country of origin of the products they buy, at least to the extent that they demand the information be placed in a more conspicuous location. Those who are concerned can readily ascertain the origin under current rules. Therefore, as a practical matter, legislation such as H.R. 445 is not designed to inform customers more fully, but rather to act as a non-tariff trade barrier. As such, it would be actionable through the dispute settlement procedures at the WTO as being in violation of U.S. obligations under the rules of international trade.

NRF appreciates the opportunity to offer these comments H.R. 445. We strongly oppose and urge the exclusion of H.R. 445 from any miscellaneous trade legislation.

[By permission of the Chairman.]

Dairy Australia
Victoria, Australia
September 2, 2005

Congressman E. Clay Shaw Jr
Chairman
Subcommittee on Trade
U.S. House of Representatives

Dear Congressman Shaw

On July 25 you invited public comments on bills proposed for inclusion in a package of miscellaneous tariff measures. These comments, in opposition to the inclusion of H.R. 521 in that package, are submitted by Dairy Australia on behalf of dairy manufacturers and producers located in Australia.

Dairy Australia is a private, not-for-profit industry services association. Dairy Australia's activities are funded by a compulsory check-off on all cows milk produced in Australia. The size of the check-off is decided by a vote of all economically active dairy farmers every three years.

Australian dairy processors are globally competitive; producing high quality milk protein concentrates (MPC's) and casein (including caseinates). Exports of these value added dairy ingredients to the United States and a range of other countries are not subsidized i.e. Australian dairy processors rely solely on the market place for turnover and profitability. Australian origin casein exports have entered the U.S. market for over 50 years.

This bill would establish tariff rate quotas (TRQ's) on MPC's and casein at levels less than 50 percent of respective volumes imported in 2004. If implemented the

out-of-quota or high tier TRQ ad-valorem rate, based on current import values, of 38 per cent for MPC and 44 percent for casein would effectively restrict trade to the in-quota volumes. This would allow no scope for innovative Australian dairy processors to grow, unhindered by non-commercial barriers, their business in the United States marketplace.

Background

The Agricultural Adjustment Act of 1949 effectively eliminated, until 2003 the ability of U.S. domiciled manufacturers to operate a profitable casein industry; through adjusting the dairy price support program to economically encourage the drying of milk proteins into non-fat dry milk (NDM) powder. (MPC was not commercially available in 1949).The March 2001 General Accounting Office report [1] noted the U.S. industry is hamstrung in trying to switching to value added milk protein ingredients because of "economic disincentives" created by the dairy price support system.

Government policies can play an important role in influencing the competitiveness of dairy products and in turn influencing product mix decisions by processors. In this regard the 1979 International Trade Commission (ITC) Section 332 report noted that with the institution of the price support program, as mandated by the 1949 Agricultural Adjustment Act, domestic production of casein became less profitable than the production of NDM.

Benefits of MPC and casein

MPC and casein imports benefit U.S. food manufacturers and ultimately consumers through;

- Providing tailored ingredients for specific end use(s) by food manufacturers
- Providing a high quality, nutritionally beneficial ingredient at a competitive price; see attachment
- Improving manufacturing efficiency through increasing yields and reducing waste products because of the high concentration, compared to possible substitutes such as NDM, of milk proteins

In many instances MPC and casein do not replace domestic U.S. origin NDM because of superior nutritional functional and flavor attributes. NDM has substantially higher levels of lactose (milk sugar) and substantially lower levels of the commercially valuable milk protein.

The major beneficiaries of TRQ's may be suppliers of non dairy substitutes such as soy; potentially causing a permanent loss of market opportunity for dairy proteins if ingredient users alter their recipe formulas.

Imported MPC and casein have only played a very marginal, if at all, role in displacing domestically produced milk proteins. The International Trade Commission (ITC) report released in May 2004 [2] stated that imported milk proteins that "*may*" have substituted for domestically produced milk proteins accounts for approximately only 1.27 percent of U.S. milk protein production from 1998–2002.

Australian MPC exports to the United States

An example of a mutually beneficial commercial relationship is that between Australia's largest dairy processor, Murray Goulburn Cooperative and a family owned food company based in Illinois, Erie Foods International (Erie).

The relationship evolved as a result of the impact on the U.S. dairy processing sector of the 1949 Agricultural Structural Adjustment Act. Erie was forced to stop the domestic manufacturing of casein because it became more economic to dry milk protein into the commodity product, NDM rather than convert into value added milk protein products.

Erie began at that time a joint venture casein manufacturing operation in Australia with a predecessor company to Murray Goulburn. The commercial venture has prospered and has grown to include the import of milk protein concentrates.

Australia has a long if varied history of exporting milk protein concentrates to United States. The original exporter was United Milk Tasmania. Exports by season were;

- 1982/83 28 tonnes
- 1983/84 170 tonnes
- 1984/85 200 tonnes
- 1985/86 125 tonnes

[1] Reference is GAO–01–326, page 9.

[2] Conditions of competition for Milk Protein Products in the U.S. market, Investigation No 332.–453, USITC Publication 3692, May 2004.

- 1986/87 440 tonnes
- 1987/88 100 tonnes

Most of this was MPC 75 percent, although the following MPC's were made and exported; 42, 50, 56, 70, 75 and 80. The entire product was made via ultra-filtration.

Australia since 1995 has been the third largest supplier of imports of milk proteins to the United States; behind New Zealand and the European Union who collectively dominate trade.

Tariff Classification History: Are MPC Imports taking advantage of a U.S. Trade loophole?

The short answer is no!

Congress considered the issue of Customs classification of MPC in 1984. Casein had previously been afforded duty free entry with zero quantitative (quota) restrictions because the 1949 Agricultural Structural Adjustment Act, by including NDM rather than casein in the price support program, had effectively decimated domestic production of the latter.[3]

In 1984 deliberations, the House Ways and Means Committee considered two very different approaches. The first was developed by the Senate Finance Committee, which had recommended a provision that would have defined milk protein concentrates narrowly. That committee observed that three recently developed dairy products were currently being classified in different "basket" categories, with;

- Whey protein concentrate classified as TSUS 183.05 (other edible preparations not specifically provided for), dutiable at 10 percent ad valorem;
- Lactalbumin classified as TSUS 190.15 (albumin not specially provided for) free of duty; and
- Total milk proteinate classified as TSUS 493.17 (other casein and mixtures in chief value thereof) dutiable at 0.2 cents per pound

The Senate provisions would have extended the scope of the existing quota provisions for dried milk, dried cream and dried whey (TSUS 950.01 and 950.02) to cover the three new tariff categories as well, and would have made them subject to Section 22 quotas. However, the House Ways and Means Committee, by contrast, considered the Senate Approach but did not adopt it and it was not included in the 1984 law.

The Summary of Provisions of HR 3398 (Trade and Tariff Act of 1984) as passed by the House and Senate (WMCP: 98–39) states: "Under present law, whey protein concentrate, lactalbumin and milk protein concentrate are classified under various 'basket' provisions in the TSUS. The conference agreement creates new tariff provisions for each of these recently developed dairy products. The applicable tariff rates remain unchanged and no quantitative restrictions would be imposed."

Thus, the conference committee's language indicates that while the Congress considered applying quotas to milk protein concentrates with 40 percent or more protein by weight, it deliberately decided not to do so. Subsequently, the Uruguay Round Agreement converted the Section 22 quotas to Tariff-Rate Quotas, and bound the United States to maintain its tariff treatment for milk protein concentrates as defined under the 1984 law described above.

In 1986, Congress modified the definition by changing "albumin" to "lactalbumin".[4]

Decisions by the U.S. Customs Bureau in 2002 and 2003 have supported the existing Harmonized Tariff Schedule classification i.e. Note 13 to chapter 4 states "For purposes of subheading 0404.90.10, the term "milk protein concentrates" means any complete milk protein (casein plus lactalbumin) concentrate that is 40 percent or more protein by weight". Customs rejected petitions organized by the National Milk Producers Federation in 2002 and 2003 (Reg. 516 appeal) to reclassify imported milk protein concentrates into tariff lines covered by quotas.

In all these instances the policy intention is clear; Congress and the Administration have determined not to place any restrictions on trade.

U.S. and International Market Conditions for Milk Proteins

The issue of TRQ's on value added milk protein imports (MPC's, casein and caseinates) needs to be viewed within the broader context of favorable international market developments. Consecutive reductions in the NDM support price in May

[3] To quote from an Erie Foods letter to Representative Manzullo in March 2002; "As a result of federal farm legislation in the late 1940's, our company was forced to stop the domestic manufacturing of casein and began at that time a joint venture manufacturing operation in Australia which under Australian ownership continues to this day.

[4] Page 8–4, section 123 of 'The Trade and Tariff Act of 1984.

2001 and November 2002 and a sustained upswing in the international (or traded) price for milk proteins since mid 2003 has resulted in the following favorable impacts for the U.S. dairy industry;

- The United States has emerged as a major, non subsidized exporter of milk proteins, primarily but not solely in the form of NDM in 2004 and 2005.
- The last subsidized sale under the Dairy Export Incentive Scheme or DEIP was awarded in January 2004.
- The emergence of an unsubsidized, import replacing MPC industry in the United States. Since the second half of 2003 a joint venture between Fonterra and Dairy Farmers of America the U.S.'s largest dairy co-operative has resulted in profitable production at Portales, New Mexico. A second MPC plant is now being developed in Arizona; (a joint venture between the United Dairymen of Arizona and Fonterra). Combined both plants will meet a large portion of total U.S. demand.

The consequences of ill-judged policy actions will commercially hurt the U.S. dairy sector

As mentioned earlier the competitive threat is very real and growing from non-dairy substitutes. Non-dairy proteins, particularly soy can and are used in many food applications, especially imitation cheese products, non-dairy creamers and whipped toppings. Additionally extensive work is being undertaken by major companies such as Solae and Bunge to develop non-dairy protein substitutes targeted at replacing milk proteins in all applications.

Restricting access for milk protein products will increase the commercial incentives for non-dairy substitutes. This is detrimental to the economic well being of the dairy industry in the United States and globally.

H.R. 521 Violates U.S. Trade Commitments

Increasing tariffs on MPC and casein would violate U.S. WTO obligations and the U.S. Free Trade Agreement with Australia. In these trade pacts, the U.S. has agreed to maintain a certain level of duties. If the U.S. unilaterally decides to raise its bound tariffs, Australia and other countries supplying these dairy proteins to the U.S. market have the right to seek compensation under Article XXVIII (28) of the WTO.

Article XXVIII allows the U.S. Government to change WTO tariff concessions by negotiation and agreement. Any effort by the U.S. to change their commitments would involve either:

- A re-negotiation with key supplying countries who seek to maintain the status quo. A solution would offer corresponding concessions on other products.
- A unilateral change of the tariff rate and/or description by the U.S. This would almost certainly lead to a WTO dispute settlement action seeking either compensation and/or retaliating against U.S. origin imports.

The Irish Dairy Board in an August 2001 note to the International Trade Commission calculated compensation arrangements with WTO partners such as the EU and New Zealand would amount to $447 million in additional trade concessions.

The calculation is based on paragraph 6(b) of the 'Understanding on the interpretation of Article XXVIII of GATT 1994'. The paragraph states "when an unlimited tariff concession is replaced by a tariff rate quota, the amount of compensation provided should exceed the amount of trade actually affected by the modification of the concession". Point (b) of this paragraph provides for the calculation to be based on trade in the most recent year increased by 10 per cent.

In respect of the U.S.-Australia Free Trade Agreement the relevant article states that neither party may increase existing duties other than as permitted under the Agreement.[5]

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[5] The relevant articles which describe how tariff elimination is to be carried out are;
Article 2.3—Elimination of Customs Duties

- Paragraph 1—tariff elimination should be in accordance with Annex 2–B
- Paragraph 2—neither party may increase existing duties other than as permitted under the agreement

Annex 2–B—Tariff Elimination

- Paragraph 1—base rates reflect rates in effect 1 January 2004
- Paragraph 2—sets out staging categories for tariff elimination, with additional categories in each party's schedule

Continued

Any alleged breach of the AUSFTA would go through the agreement's dispute settlement provisions—details set out in Chapter 21 of the Agreement. The Agreement was implemented on January 1, 2005.

In addition to the economic effects of the retaliation, the U.S. would undermine its credibility to negotiate reduced agricultural trade barriers (to market access) in the Doha Development Round of trade negotiations. As a leader in advocating free trade, it would be highly inconsistent for the U.S. to erect any new trade barriers.

In *conclusion* TRQ's on MPC and casein would severely restrict the ability of U.S. food and non-food manufacturers to choose sourcing of inputs; potentially add to the cost of food and reduce consumer welfare through restricting supply of an essential ingredient; open the door for functionally inferior non-dairy substitutes potentially leading to a long-term loss of market opportunity; discourage product innovation and product development that would increase consumer choice and help consumers develop more nutritious diets, reduce competition in the U.S. dairy market and result in the United States flouting their WTO and bilateral (with Australia) trade commitments at a period when a critical stage is being entered in the Doha Development Round.

Robert Pettit
Manager Americas and Caribbean—Trade and Strategy Group

Blank Rome LLP
Washington, DC 20037
September 2, 2005

Rep. E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Shaw:

On July 25 you invited public comment on a number of bills proposed for inclusion in a package of miscellaneous tariff measures. These comments are submitted on behalf of Fonterra (USA), Inc., Lemoyne, PA, in opposition to the inclusion of H.R. 521 in that package.

In brief, this bill would establish tariff rate quotas (TRQs) on milk protein concentrate and casein (including caseinate) at severely restrictive levels—less than 50% of the milk protein concentrate and casein imported in 2004 would enter at current rates. In both cases the above TRQ *ad valorem* rate, based on current import values—38.2% for MPC and 44.4% for casein—are clearly prohibitive.

In an attempt to add a patina of legitimacy to such onerous trade restrictions, the bill has been drafted in terms of the withdrawal of concessions under Article XXVIII of the GATT. However, dressing up these proposals as purported legitimate exercises of WTO rights cannot hide the significant costs of the legislation, both in real dollars to consumers and manufacturers, and in trade policy terms to the United States. To erect a barrier under the guise of Article XXVIII, when in fact the motivation for the measure lies in domestic politics, invites others to renege on their trade commitments at the behest of changing political winds.

Indeed, given those political winds here in the U.S., in May of 2003 Senate Finance Committee Chairman Grassley requested that the International Trade Commission (ITC) investigate the competitive conditions surrounding imported milk proteins In May of 2004 the ITC reported on its unprecedented year-long investigation into the economics of imported milk proteins (*Conditions of Competition for Milk Protein Products in the U.S. Market,* Investigation No. 332–453, USITC Publication 3692, May 2004). That report clarifies the facts and dispels the economic myths regarding the impact these proteins have on the U.S. domestic dairy industry. The ITC report is the most comprehensive and authoritative analysis ever undertaken concerning the economics of trade in milk proteins. Among its findings are the following:

Schedule of the United States—General Notes

- Paragraph 4(b)—staging category F—duties removed in equal annual installments over 18 years
- U.S. Tariff Schedule—35011010 (MPC's)—base rate 0.37c/kg, staging category F

- With respect to the assertion that milk protein imports play a major role in depressing U.S.. milk prices, the ITC concludes that

"The data do not show a clear and direct relationship between imports of milk protein products and the all-milk price in all years." (Page 9–4). The report notes that the ITC reviewed a broad range of studies by prominent dairy economists and, *"Even though these studies differed in terms of modeling approaches, commodity coverage, and base year, they generally found that imports of milk protein products have had little impact on farm-level prices in the U.S. market."* (Page 9–23).

The report explains that domestic pricing of milk proteins, such as skim milk powder (SMP), and farm gate milk prices are largely a function of domestic government policies. *"The effect of imported milk proteins on farm-level prices depends on whether the market price for SMP is at, or above, the support price. Since SMP market prices were generally equal to the support price over the study period, most of the effect of imported milk protein was through U.S. Government purchases of SMP . . ."* (Page xxxiii) Interestingly the government is not now buying SMP and has disposed of virtually all of its accumulated stocks.

- With respect to the assertion that milk protein imports play a major role in displacing domestic milk proteins production, the report states on *"a protein basis, imports of MPC, casein and caseinate may have displaced 318 million pounds of U.S.-produced milk proteins between 1998–2002."* (Page xxxii).

To put this in context, the 318 million pounds of imported milk proteins that *"may"* have substituted for domestically produced milk proteins accounts for approximately only 1.27 percent of U.S. milk protein production from 1998–2002. It is not credible to argue that this degree of possible substitution is a major factor in the economics of the dairy market.

- With respect to the assertion that foreign government practices, notably E.U. subsidies, are the major factor driving imports and inhibiting a U.S. casein, caseinate and MPC industry, the report states, *"the Commission's questionnaire price data indicate that if price leadership exists in the U.S. MPC market, it is exercised by the Oceania countries."* (Page 5–7). The report notes the fact that New Zealand and Australia are the lowest cost major producers of milk proteins in the world. The report states, *"Overall, the IFCN findings show milk production costs to be lowest in New Zealand and Australia, and to a lesser extent, the EU, where cows are generally fed by rotational grazing. In this aspect of dairy farming, Australia, New Zealand, and the EU operations have a distinct advantage over their counterparts in the United States, where dairy cows are fed forage and expensive concentrates."* (Page 5–2). Moreover, the ITC found that the level of government support of the dairy industries in both Australia and New Zealand was far below that received in the U.S. and EU. *"New Zealand has the lowest percentage of dairy farm receipts from government support policies at less than 1 percent during the period."* (Page 5–7).

What the ITC report did find is that the *"most important factors affecting the competitiveness of milk protein industries are the cost of milk production and government programs."* (Page 5–1). The ITC report explicitly points to disincentives to the U.S. production of these milk proteins. These disincentives include the U.S. dairy price support program, the milk marketing order system and the Food and Drug Administration's "standards of identity" which proscribe certain ingredients for certain foods, including a number of dairy products. The report states, *"At the same time, U.S. government support for SMP reduces the incentives to produce MPC and casein in the United States."* (Page 5–1). In possibly its most direct statement on this topic, the report notes, *"U.S. production of these products is limited, and likely to remain limited, so long as the current Federal Milk Marketing Order and Dairy Price Support Program prices remain in effect."* (Page 7–24).

- With respect to the assertion that imports of concentrated milk proteins are "loophole" products and that U.S. policymakers failed to reflect upon these proteins in developing and implementing U.S. trade policy, the ITC report notes that, *"The Trade and Tariff Act of 1984 created a new TSUS rate line for MPC. Specifically section 123 of that Act established TSUS item 118.45, covering MPC, with a duty rate of 0.2 cents per pound (the same rate then in effect for casein under TSUS 493.17) and not subject to fees or quantitative restrictions under section 22. Section 123 also created a TSUS legal note defining the scope of the new MPC rate line. The note stated, that "for purposes of item 118.45, the term 'milk protein concentrate' means any complete milk protein (casein plus albumin) concentrate that is 40 percent or more protein by weight. In 1986, Congress modified the definition by changing "albumin" to "lactalbumin."* (Page 8–4).

Clearly both the Congress and Administration have been paying attention for a long time.

In addition it should be noted that:

- Both milk protein concentrate and casein imports substantially benefit U.S. industry and consumers by:

—making available specialized products not available from domestic sources
—contributing to the ability of industry to utilize new technology to make new products
—encouraging the introduction of new products targeted toward particular market segments such as geriatric foods and athletic drinks
—improving process efficiency by increasing yields and reducing waste product, the disposal of which is a continuing problem for the industry.
—The introduction of quotas would impose additional costs on the U.S. food industry and would reduce their competitiveness substantially. Rather than providing additional benefits for the food and dairy industries, the imposition of quotas would have significant downsides.
—In most end uses imported MPC and casein do not replace U.S. non-fat dry milk (NFDM) or other milk supplies, as both MPC and casein have nutritional, functional and flavor attributes not shared by NFDM. For example, for nutritional products, NFDM contains too much lactose and too little protein. Other proteins such as soy are often better substitutes for MPC and casein than NFDM.
—To illustrate the widespread application of casein and MPC, we have attached to this letter a list of some generic uses for them. As you will note, the uses are strikingly broad. A catalog of branded products containing these ingredients would certainly number in the hundreds, and likely in the thousands.
—MPC and casein duties were bound in the WTO by the U.S. in the Uruguay Round. Thus the U.S. may not increase the tariffs or impose quotas on these items without backtracking on its international obligations. We understand that the Irish Dairy Board has supplied the International Trade Commission with an estimate of the costs that would be involved in Article XXVIII compensation, which they estimate to be 447 million dollars.
—Clearly Article XXVIII was not intended to be utilized in the erection of barriers to newly developed and technologically sophisticated products, whose domestic development has been inhibited by U.S. support policies.
—Finally, it should be noted that Fonterra, in a joint venture with Dairy Farmers of America, has begun MPC production in Portales, New Mexico without a U.S. subsidy; dispelling any idea that the U.S. producers are not able to compete against imports. The plant in Portales is profitably responding to the market demand for MPC and is running at full capacity. As a result of its success, a second plant is being developed in Arizona to meet market demand, and when both plants are operational (not to mention the prospect of additional capacity), nearly half of U.S. domestic demand will be met by U.S. domestic production—a dramatic change from just over 2 years ago.

In summary, the adoption of this bill would limit the access of U.S. manufacturers of a wide range of food, nutritional and medical products to ingredients which have been tailored to their particular products. It would drive up their costs or force them to substitute functionally inferior ingredients such as soy based proteins. In either case, both they and the consumers they supply would be ill served. Moreover, the U.S. would be obligated to pay significant compensation to supplying countries, while creating a terrible precedent for others to renege on their international obligations as we enter the final stages of the Doha Development Round of trade negotiations.

Edward J. Farrell

General Mills
Washington, DC 20005
August 23, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

General Mills appreciates this opportunity to offer comments to the Committee regarding including HR 521 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. General Mills joins many others in strongly opposing the inclusion of HR 521. HR 521 is extraordinarily controversial; its adoption would imperil U.S. trade negotiations and blunt the innovation of products using dairy ingredients.

General Mills is a significant user of internationally sourced caseins and caseinates, utilized to produce some of the best-known consumer food products in the country. Tariffs on these proteins will substantially increase raw material costs for domestic food processors, negatively impact consumers, and ultimately be ineffective in solving our country's dairy oversupply problem.

Caseins and caseinates exhibit unique product characteristics and provide functionality not available with domestic dairy alternatives. Casein is produced from skim milk by removing sugars, minor proteins, and minerals by using enzymes and acid to physically separate these components from the casein. Unfortunately, in the United States, government subsidies cause casein production to be uneconomical. Milk processors have an incentive to dry skim into non-fat dry milk (NFDM) and sell this product to the government at the support price levels, bypassing the casein production process. While NFDM is useful in many food processing applications, it lacks many of the characteristics needed for certain applications; including, attributes needed in the production of substitute cheese for use in low cost food applications and various baking applications.

The deficit supply environment for caseins and caseinates in the U.S., combined with the unique functionality of these proteins in food processing, means that General Mills will continue to import these proteins regardless of import tariffs. This will inevitably pressure consumer food prices higher on products designed to be economical alternatives for lower income consumers. Simultaneously, stocks of NFDM will rise regardless, as the root cause of the dairy oversupply problem has not been addressed: government subsidies causing inefficient market allocation of domestic dairy products. NFDM production is so healthy that the United States is quickly becoming a major global supplier of this commodity.

General Mills strongly opposes the proposed tariff-quota structure for proteins, caseins, and caseinates. The impact of this legislation would be negative for U.S. consumers, bad for international trade relations, and ineffective in encouraging greater use of domestic dairy products. Interestingly enough, recent developments in the industry have seen the birth of what may be a robust domestic milk protein sector—this of course is occurring in the absence of a tariff-rate quota, and is the product of market demand for supply. Furthermore, in its nonpartisan review of this issue released last year after more than one year of investigation, the U.S. International Trade Commission found no correlation between the use of these imported proteins and domestic NFDM prices.

We appreciate the consideration of our views.

Sincerely,

Jeffrey A. Shapiro
Washington Representative

Grocery Manufacturers Association
Washington, D.C., 20037
August 30, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1104 Longworth House Office Building
Washington, DC 20515–6354

Dear Mr. Chairman:

The Grocery Manufacturers Association (GMA) appreciates this opportunity to provide our views to the Subcommittee on Trade on why H.R. 521 should not be included in the U.S. Trade Laws and Miscellaneous Duty Suspension Bills under consideration in this session. The tariffs proposed under H.R. 521 would not protect the U.S. dairy industry as that bill implies and would impose additional costs to the U.S. consumer.

GMA is the world's largest association of food, beverage and consumer product companies. With U.S. sales of more than 500 billion dollars, GMA member companies employ more than 2.5 million workers in all 50 states.

The premise of H.R. 521 is that the U.S. dairy industry needs protection from the import of casein and milk protein concentrates. This argument is erroneous on two levels. First, dairy prices are not being affected by the import of MPC and casein. The U.S. Department of Agriculture 2004 all-milk price paid to farmers was $16.04 per hundredweight (cwt), while the average has been $13.57 cwt for the last ten years. The forecasts for 2005 peg the all-milk prices as the third highest on record and these prices are in no way negatively affected by the import of MPCs (see ITC Investigation No. 332–453, May 2004 comments below). Second, with the exception of one relatively new facility in Portales, New Mexico, no highly-filtered milk products are currently produced in the U.S. These filtered milk products have certain desirable qualities not present in dry skim milk products and which could not be easily replaced by less filtered dairy inputs.

MPC and casein are both milk-derived ingredients that have been processed to retain and concentrate their protein content but extract certain other elements, such as ash or lactose (which some people are allergic to). These protein-rich ingredients provide valuable nutritional and technical properties to a wide variety of consumer foods and nutrition products produced by GMA member companies, including infant formula, sports drinks and "power" bars, diet supplement products, snack foods, hot dogs, cheese products, as well as many others.

Reasonable access to imports of MPC and casein is particularly critical because there is, virtually, no domestic production of these processed dairy ingredients in the United States. Yet milk producers have amplified their call for tariff legislation, arguing that MPC "circumvents" dairy tariffs and displace domestically produced non-fat dry milk.

From the United States International trade Commission 332 Report on Imported Dairy Proteins Conclusions Regarding Substitutability:

The International Trade Commission carefully analyzed the issues relating to the use of imported dairy proteins in its Section 332 Report, including the possible substitution of milk protein concentrate (MPC) for skim milk powder (SMP). While the ITC report concludes that imports of casein, caseinate and MPC may have substituted for domestically produced milk proteins, like SMP, in some applications because of their superior functionality and pricing, they find such substitution to be limited. Specifically, the report states that on *"a protein basis, imports of MPC, casein and caseinate may have displaced 318 million pounds of U.S.-produced milk proteins between 1998–2002." USITC, Conditions of Competition for Milk Protein Products in the U.S. Market, Investigation No. 332–453, USITC Publication 3692 (2004) at* 7-13. To put this in context, the report notes that the U.S. annually produces over 170 billion pounds of milk, so that the 318 million pounds of imported milk proteins that "may" have substituted for domestically produced milk proteins accounts for just 1.27 percent of U.S. milk protein production from 1998–2002. It is simply not credible to argue that this degree of possible substitution is a significant factor in the economics of the dairy market. Further, the ITC report notes that:

- "There appears to be little substitution between imported and U.S.-produced milk proteins in the specialty nutrition products." *Id at 7–22;* and

- "To a lesser extent, manufacturers are substituting imported casein and caseinate for SMP, WPC, UF milk, and ingredient cheese in processed cheese products, other dairy foods, and bakery products." *Id at 7–22;* and, finally
- "It appears that the majority of this substitution occurs in the production of processed cheese products where MPC substitutes for SMP, UF milk, and ingredient cheese." *Id at 7–22.*

With respect to this final point, it appears to the U.S. Coalition for Nutritional Ingredients that the ITC's assumptions concerning such substitution overlook certain commercial realities. Namely,

1. *High switching costs*

The Report states that the fact that process cheese products utilizing these alternative ingredients can be made in the same plants using the same equipment "*may* indicate that the switching costs of producing processed cheese products with SMP versus MPC are minimal." (7–13, emphasis added.) However, the Report does not include any data relating to switching costs. In fact, Coalition members have spent millions of dollars over several years improving their products though the use of MPC. Coalition members' manufacturing processes cannot accommodate switching back and forth between MPC and SMP depending on the relative cost and availability of those ingredients. If process cheese manufactures were required to stop using MPC in their products, they would incur several million dollars in costs to switch to new formulas.

2. *The technical superiority of MPC in process cheese.*

The Report notes that 99% of the MPC used in process cheese products is high protein MPC, with a protein percentage of 70% or greater (91% MPC 70–79 and 8% MPC 80–89). (Table 7–3) Almost all of the imported MPC used in the process cheese products produced by Coalition members is high-protein MPC, produced through the ultrafiltration process in New Zealand, and to a lesser extent in Australia. (Coalition members have also begun using newly available high-protein, ultrafiltered domestic MPC.) Low-protein MPC produced by blending is not suitable for processed cheese applications. The high-protein, UF MPC products used to manufacture process cheese have a protein concentration double that of SMP, greater consistency, and low lactose levels. For example, MPC–70 has a lactose content of 17% compared to over 50% for SMP.

The ITC notes that high-protein MPC is technically superior to SMP in process cheese products, making the following specific observations, with which the Coalition agrees:

- "Lactose is a problematic ingredient in a number of dairy products. Therefore, alternative protein sources that can deliver the desired protein without the lactose are appealing for the production of products where excess lactose is a concern." (7–10)
- ". . . industry and academic experts stressed the importance of controlling the amount of lactose present during the manufacturing of both natural and processed cheese. Excess lactose reacts with water to form crystals, results in poor cooking and melting properties, and over time, may alter the color, flavor and consistency of the product." (7–10)
- ". . . The use of MPC instead of SMP can improve the efficiency of the production process and thereby lower total production costs." (7–13)
- The ITC recognizes that even if some manufacturers may have reduced their purchases of SMP and other U.S. dairy proteins as they developed formulas including MPC, they are not likely to reverse that process, due to the technical superiority of MPC:
- "However, while manufacturers may readily switch from U.S.-produced to imported milk proteins, they are somewhat less likely to switch from imported to U.S.-produced milk proteins. Barring significant changes in relative prices, *the superior functional properties of imported milk proteins discourage switching to SMP, UF milk, WPC or ingredient cheese from MPC."*

(7–22, emphasis added.) In other words, once a company has invested in using a superior ingredient, it is far less likely to make another significant investment to be able to use a less-desirable ingredient, even if there is a price advantage. U.S. process cheese manufacturers, and their customers, do not regard substituting a higher-priced, inferior ingredient as a rational substitution.

3. *The MPC used in process cheese is not subsidized.*

The claims of the TRQ proponents that they need to be protected from "unfairly subsidized" imported MPC are particularly inapt in the case of process cheese. The

high-protein MPC used in process cheese is manufactured through the ultrafiltration process in New Zealand and Australia, as noted above. As the Report clearly demonstrates in Chapter 5, there are virtually no subsidies on the production of MPC in New Zealand and very low subsidies in Australia. (See Table 5–5, which shows a Producer Support Estimate of less than 1% for New Zealand, compared to 44% to 60% for the U.S.)

Conclusion

GMA is opposed to any attempt to impose higher tariffs or restrictive tariff-rate quotas on imports of MPC or casein. The U.S. dairy industry is under no threat from substitution with imported filtered milk products such as MPCs and casein. Dairy prices are at an all-time high making any further protections of that industry unnecessary. For these reasons, GMA would argue against such a bill in any forum. Given that H.R. 521 has been placed in the Miscellaneous Tariff Bill, we would also argue that this is a controversial bill, traditionally not the kind of bill considered under suspension of the rules.

The Grocery Manufacturers Association appreciates this opportunity to present our views on this matter.

Mary Sophos
Senior Vice President, Chief Government Affairs Officer

Kerry Americas
Beloit, WI 53511
September 1, 2005

Chairman E. Clay Shaw, Jr.
Subcommittee on Trade, Committee on Ways and Means U.S. House of Representatives
1104 Longworth House Office Building
Washington, D.C. 20515–6354

Dear Mr. Chairman:

I am writing in strong opposition to the inclusion of H.R. 521, a bill that would impose highly damaging tariff-rate quotas (TRQs) on U.S. imports of casein, caseinate and milk protein concentrates (MPCs), in the pending Miscellaneous Tariff Bill (MTB).

We, along with many companies, utilize these milk proteins to produce a variety of food ingredients and other related products that are valuable to our customers both in the U.S. and abroad. Our company imports these milk proteins to help satisfy our customer needs in a number of our manufactured products. In fact, if these tariffs were to go into effect it would damage our ability to continue our growth as a company that is headquartered in Wisconsin and employs over 1,000 people in that state alone, but also people in many more states where we take pride in producing to meet our customers needs. We also export our products, which is another reason why we are particularly concerned about H.R. 521 because it may result in retaliation against the very products we export not to mention other U.S. exporters.

We know the milk proteins sector has been studied in depth by the U.S. International Trade Commission (ITC) as recently as 2004. A fair reading of the ITC report does not provide a foundation for the imposition of legislation like H.R. 521. As you well know, this independent unprecedented fact-finding investigation and the subsequent report should serve as a basis to reject protectionism as it relates to milk proteins. Furthermore, the trade and economic conditions in this sector since the period that was studied (1998–2002) by the ITC further drive home the point that protectionism is the wrong course.

I know there are many arguments that have been tossed around regarding this issue on both sides. But, as a business executive that manages competitive manufacturing in the U.S. for a global market, H.R. 521—if enacted—would be exactly what we do not need. It would cause us significant damage and signal us that additional investment in growth may not make sense. Why would anyone with the responsibility to oversee U.S. trade policy want to knowingly significantly damage competitive manufacturing and food ingredient production in America? Such action would only harm the market for dairy-based ingredients and, in the end, dairy farmers interested in supplying these growing markets. I strongly urge you to not include H.R.

521 in the MTB and to reject any efforts to impede U.S. trade in these milk proteins.

Stan McCarthy
President and CEO

Statement of Jaime Castaneda, National Milk Producers Federation, Arlington, Virginia

Executive Summary

The fundamental cornerstone of federal policy toward the U.S. dairy industry consists of the dairy price support program, operating in conjunction with WTO-consistent restrictions on imports of dairy products that permit the price support program to function in the presence of a highly-distorted and subsidized world market. Milk protein products, consisting of milk protein concentrate and casein, constitute a loophole in these import restrictions. As a result of this loophole, U.S. imports and use of these milk protein products have grown rapidly over the past decade, driven by foreign subsidies, both domestic and export subsidies, and by foreign monopoly exporting advantages.

In recent years, rapid growth in U.S. milk protein imports economically displaced an equivalent quantity of domestically-produced milk proteins, creating a large, artificial surplus of nonfat dry milk that has been sold to the Commodity Credit Corporation (CCC) under the price support program. This displacement eroded the effectiveness of the price support program, leading to significantly lower prices and incomes for U.S. dairy farmers and increased cost for U.S. taxpayers.

The fact is that milk protein is milk protein. When additional amounts of milk protein are permitted to evade the underlying intent of our dairy import policies, the natural consequence is that domestically-produced milk proteins will be displaced. This is exactly what occurred during the recently past period of extremely low prices as evidenced by the close correlation between CCC purchases and additional imported milk proteins during that time period. The U.S. milk protein import loophole has essentially converted the U.S. domestic dairy price support program into an additional subsidy for the already subsidized foreign manufacturers of milk protein products and for domestic manufacturers of dairy products, at the expense of U.S. dairy farmers and taxpayers.

Economic analysis shows that U.S. milk protein imports will continue to grow and contribute to the volatility of producers' incomes. This continued trend will further depress U.S. farm prices and incomes during times of price troughs, rendering the dairy price support program increasingly ineffective, and exacerbating the U.S. dairy industry's nonfat milk solids component surplus which often accrues during low price periods. We estimate that projected growth in U.S. imports of milk protein products will erode dairy farm prices and lead to a cumulative loss of U.S. dairy farm income of about $2.7 billion dollars between 2005 and 2012. This economic situation is not sustainable and is undermining the stability of the U.S. dairy industry and threatening its long-term ability to be a reliable supplier to one of the world's largest markets for milk and dairy products.

In order to rectify this situation, NMPF has worked with Members of Congress to propose legislation to address this tariff loophole (H.R. 521 and S. 1417). These bills would create tariff-rate quotas for imported milk protein concentrate and casein products in order to allow a certain level of existing imports to continue, but to get a handle on explosive future growth of these imports. Despite the current favorable prices dairy producers are enjoying, milk prices are notoriously cyclical. This legislation is urgently needed to avert subjecting dairy producers to the devastating price circumstances they faced in 2002 and early 2003, which contributed to the extremely erratic prices of the past few years. This measure is in the interest of the U.S. dairy industry as a whole, since no part of the industry is well-served by the extremely volatile milk prices we have seen of late.

Introduction

The National Milk Producers Federation (NMPF) is the national farm commodity organization that represents dairy farmers and the dairy cooperative marketing associations they own and operate throughout the United States. The U.S. dairy industry is the second largest agricultural commodity subsector, as measured by farm cash receipts, generating an average of $24.3 billion in annual farm receipts from sales of milk during 2003–2004. The retail value of dairy products made from milk produced in the U.S. is estimated at approximately $90 billion last year. There were

70,209 commercial dairy farms in the U.S. in 2003, each generating an estimated average of 16.7 jobs at the dairy farm and dairy processing plant level, for an estimated national total of 1,170,000 domestic jobs, not counting jobs at other levels in the agricultural and food industry, such as input suppliers, distribution, retailing and food service. By any measure, the U.S. dairy industry is a major domestic industry.

The United States is also one of the world's largest and most attractive markets for the sale of milk and dairy products. Imports of many dairy products into the U.S. market are restricted under various tariff-rate quotas (TRQs), whose imposition is due to long-standing federal policy to operate the dairy price support program as the fundamental farm policy safety net program for U.S. milk producers. Without import restrictions, this policy could not be effectuated, given the significant distortions and subsidies that characterize the world market for dairy products.

However, under the World Trade Organization Agreement on Agriculture, negotiated in the Uruguay Round, the United States significantly expanded access to its domestic dairy market and relinquished its previous ability under Section 22 of the Agricultural Adjustment Act to impose import restrictions in reaction to potential loopholes, changing market conditions and technological advances. During the ten-year period of 1995 through 2004, U.S. imports of total milk solids (milkfat plus nonfat milk solids) in all dairy products almost doubled, from about 475 million pounds to about 930 million pounds. During this same period, the share of total imported milk solids that were imported in the form of dairy products within tariff-rate quotas declined, from 32 percent to 25 percent.

U.S. Imports of Milk Protein Products are Increasing on a Long-Term Basis

A major class of dairy imports that has been growing without restriction during the past decade has been milk protein products. These consist of milk protein concentrate (MPC), HTS 0404.90.10, which U.S. Customs defines as containing between 40 percent and 90 percent milk protein; milk protein concentrate, HTS 3501.10.10, which Customs defines as containing at least 90 percent milk protein; casein, HTS 3501.10.50; and caseinates, HTS 3501.90.60. None of these four products is subject to TRQs when imported into the United States. Casein is imported free of duty, while the other three products are subject to a negligible duty of $.0037 per kilogram, which is equivalent to about one-tenth of one percent, on an *ad valorem* basis.

Figure 1, below, shows annual imports of these four milk protein products during 1993 through 2004, and forecasts for 2005, based on imports during the first five months of the year. Data are from the U.S. Bureau of the Census, as reported by the USDA Foreign Agricultural Service. MPC imported under 0404.90.10 could contain milk protein contents of 40 to 70 percent, and is designated as MPC-low, while MPC imported under 3501.10.10 is assumed to contain an average milk protein content of 90 percent, and is designated as MPC-high.

Imports of these milk protein products, particularly MPC-low, have clearly been growing over this period. Imports of this product experienced a one-year drop in 2001 due to severe supply constraints and restrictions on imports from the European Union in the wake of the foot-and-mouth disease outbreak (see Figure 2 below) and to possible reaction to highly visible efforts by NMPF to curb these imports. Following that, import levels again began to grow in 2002 before becoming subject to outside market conditions for a time.

As seen in the graph, import levels in the first quarter of 2005 have spiked compared to 2004 levels. This has occurred despite tight world supplies of milk protein, indicating a likely return to the general trend of increasing import quantities of these products. This development concurs with NMPF's repeated previous statements concerning the fact that, although MPC and casein imports had temporarily declined for a time, that state of the market was by no means permanent. Rather, as we are currently seeing, the overall trend of the past decade has been for these import levels to climb—often drastically. This is precisely why a long-term solution, such as H.R. 521, is needed to address this loophole. Better to act now to head off a problem than to see dairy prices plummet to record lows again in the future if Congress does not take measures to address this situation.

Moreover, in a letter (available for subsequent submission) dated April 28, 2003, the U.S. customs identified a number of cases in which imported MPC is a blended product based on 90 percent skim milk powder. Also noteworthy is a letter that the National Milk Producers Federation sent to the ITC on October 4, 2001 (also available for subsequent submission) wherein we noted that a market basket survey of several large chain grocery stores revealed that all surveyed stores carried cheese products that contained MPC as a listed ingredient. Although this survey was limited in scope, concentrating on the Washington, DC area and a few selected stores

in the Midwest, the findings conclusively showed how wide-spread the use of MPC is, even in the production of standardized cheese products.

Casein and caseinates are not produced commercially in the United States because they can be imported at a lower protein-equivalent price than domestically-produced milk proteins. MPC-high and MPC-low are produced commercially in the United States, but operations can not be expanded because the same products, whether they are skim milk powder or some other form of milk protein concentrate, can be imported at a lower price. This, in turn, is due to the fact that the production and marketing of these products by other countries is largely subsidized and because we do not have a specific subsidy program for skim milk that allows U.S. manufacturers to dump their product into world markets such as those in Europe, Canada and New Zealand.

Figure 2 shows the country of origin for imports of the four milk protein products during 1998–2004. New Zealand and the European Union account for the large majority of all products in each of these years. New Zealand markets these products through monopoly state trading, which allows it to cross-subsidize among markets and products. The European Union operates a subsidy program for the production of casein and caseinates, which allows it to export large quantities of these products below its costs of production, just as its direct export subsidies allow it to export large quantities of butter, milk powder and cheese below cost. The EU's program for aid to the production of casein and caseinates also allows it to export blends of these products with skim milk powder and whey as milk protein concentrate, despite the fact that the Harmonized Tariff Schedules of the United States impose higher tariffs for skim milk powder.

As discussed above, the large drop in MPC-low imports from the EU in 2001, following the foot-and-mouth disease outbreak, can be clearly noted in Figure 2.

Canada and various eastern European countries, which export smaller quantities of milk protein products to the United States, also use export subsidies to do so. In Canada's case, the subsidies in question have operated outside the sanction of the World Trade Organization. These distortions created by monopoly advantages and by domestic and export subsidies are responsible for making MPC and casein available at a lower cost to U.S. purchasers. The very reason these products are so financially attractive to processors and manufacturers in the U.S. is because other countries have orchestrated their dairy programs to make them artificially affordable. Therefore, advocating a "free-market" approach where importers can purchase whatever product is the lowest cost ingredient essentially advocates undercutting the U.S. commitment to minimal domestic market intervention and supports a global system of artificially-low offered prices.

The primary reason why MPC and casein are being imported into the United States in large and increasing quantities is because, for reasons addressed above, they provide food processors with a lower-cost source of the dairy components that they would otherwise procure from domestic milk producers. The real concern is that many companies may initially convert because of the price differential. However, once they have invested the necessary resources in restructuring their operations to accommodate the use of imported milk protein products, there is a strong incentive to continue using those products due to the additional costs associated with varying the protein source. As more manufacturers see their competition converting to using cheaper and subsidized imported milk protein products, they will face extreme pressures to convert to these artificially discounted products in order to remain competitive. This will lead to the increasing development of processes that rely on MPC and casein, not because domestic sources of milk protein would not suffice; but rather because different systems are required to process different protein delivery forms.

Despite this tendency, the root cause of this increasing trend away from milk proteins produced in the U.S. is not the discovery of new products that can only be made with imported milk protein products. Rather, the underlying cause is the comparative affordability of these subsidized imported products as compared to domestic alternatives. It is the choice to avoid the appropriately priced domestic protein products that is spurring the majority of the decisions to convert to MPC/casein, which in turn may then lead to the development of additional uses tailored to these products.

The National Milk Producers Federation does not dispute that a limited number of products do now require the specific properties of MPC-high or casein. The heavy subsidization of those products and the development of new uses of those products to take advantage of a loop-hole in the U.S. tariff system, however, are what are at issue. Moreover, the need for the majority of these products is at best unclear and more likely heavily dependent on artificially low prices. The importation of

these products is clearly a "windfall" to processors that is directly undermining U.S. laws that protect U.S. dairy producers' income.

Despite what importers and advocates of these products may say, the reality of the situation is that the world markets for milk proteins, as well as other milk products, are extremely distorted. Those who encourage one-way free trade and argue that U.S. producers are uncompetitive because of our domestic support failed to note that other countries are competitive solely because of trade distorting programs.

Second, substitutability is not an issue. The large demand for milk proteins that are currently being imported is perfectly sustainable using U.S. skim milk. The bulk of the demand for these products arises from their artificial affordability, not from their special properties. Moreover, in the select instances where manufacturers may feel that their product does indeed demand certain properties supplied by MPC-high or casein, the U.S. market is capable of meeting this need, provided the manufacturers pay the fair market price for the products. All imported proteins are either already being produced in the United States or can be produced in a fairly rapid matter.

U.S. Milk Protein Imports are Displacing Domestically-Produced Milk Proteins

Imported milk protein products are used largely in the production of dairy foods, primarily cheese, as well as other food products. Their importation therefore displaces domestically-produced milk protein, which is manufactured into nonfat dry milk, or skim milk powder, the traditional product into which excess skim milk solids are manufactured in the U.S. dairy industry, and sold in that form to the Commodity Credit Corporation (CCC) under the dairy price support program's standing offer to purchase.

The data in Figure 3, above, show that milk protein imports into the United States are growing in the long run, as shown by the explosive 59% growth in the amount of proteins coming into the United States in the form of MPC, casein and caseinates between 1993 and 2004. Growth in the level of total MPC, casein and caseinates imports between 1993 and 2004 is even higher at 67%. The data above also show that milk protein imports are growing not just in absolute terms but also as a portion of the protein supply in the large and growing U.S. dairy industry. Imported milk proteins have grown from approximately 50 percent to about 60 percent of the milk proteins in domestically-produced nonfat dry milk. This growth in milk protein imports, in both an absolute and a relative sense, is having increasingly negative impacts on the domestic industry.

Figure 4, on the following page, compares the growth in the volume of milk protein imports since 1993 with the level of milk proteins displaced in the domestic market, as measured by purchases of nonfat dry milk by the Commodity Credit Corporation under the dairy price support program. To facilitate the comparison, milk protein import growth is expressed in terms of the equivalent volumes of nonfat dry milk that would supply the same volumes and types of milk protein as are contained in imported milk protein products.

CCC purchases were small at the beginning of this period but have since grown at a rate that closely matches the rate of milk protein import growth. The only year which deviates somewhat from this pattern is 2002, when supplies temporarily outstripped consumption, which was dampened by the recession and the events of 9/11. As shown, the basic correlation has reestablished itself subsequently. Additionally, more recently in 2005, the relationship again experiences a bit of an anomaly as import levels continue to climb while CCC purchases are minimal due to the current extremely tight world supply of dairy proteins which has allowed for the export of sizable amounts of nonfat dry milk from the U.S.

A word of clarification should be interjected at this point, regarding the issue of displacement of domestically-produced milk proteins by imports. In discussions of this issue, it is sometimes claimed that imported milk protein products, for example casein, do not substitute for domestic milk protein products such as nonfat dry milk because the two products do not have the same physical properties in food processing applications. As a result, nonfat dry milk cannot be directly substituted for casein in a number of applications. However, this type of consideration deals with the issue of *physical* substitutability, not *economic* substitution.

In this sense, milk proteins imported in all product forms displace domestically-produced milk proteins, which are commonly manufactured into nonfat dry milk when displaced. U.S. milk proteins could be, and would be manufactured into any and all forms for which domestic uses exist, including all products currently imported, if imported milk proteins did not benefit from subsidies which reduce their prices or if U.S. mil proteins were able to receive corresponding subsidies to match imported protein prices.

U.S. Milk Protein Imports Have Seriously Eroded U.S. Dairy Farm Prices and Income

The impact of import replacement in the U.S. milk proteins market is negative and substantial for U.S. dairy farmers. It creates excess supply of U.S. nonfat milk solids and depresses domestic prices of dairy products that are affected by the supply and demand for milk proteins and nonfat milk solids, primarily nonfat dry milk. This, in turn, depresses prices for milk received by farmers in the United States.

By way of explanation: In the United States, most dairy farmers are paid for the milk they produce through the market regulatory mechanism of marketing orders, operated either by the federal government or by individual states. Approximately 70 percent of all milk produced is normally marketed under ten federal milk marketing orders covering specific geographical areas. Under a federal milk marketing order, farmers are paid a weighted-average, or "blend" price based upon the proportionate use of the milk that supplies the order area in different dairy products. Separate use classes, and corresponding separate prices, are utilized to reflect milk used to produce fluid milk products (Class I); soft manufactured products such as yogurt, cottage cheese, ice cream and creams (Class II); hard cheese and whey (Class III); and butter and nonfat dry milk powder (Class IV).

Minimum prices that milk buyers must pay under federal milk marketing orders for milk used to produce these different product classes are determined monthly using formulas that incorporate reported prices for Class III and Class IV products (cheese, whey, butter and nonfat dry milk), as well as milk yields and processing costs reflective of producing those products. In any particular month, prices for Class II, Class III and Class IV milk are the same in all federal milk marketing orders, while prices for Class I milk vary geographically based on transportation costs, milk supply and milk consumption considerations. The Class I price for a month is essentially the higher of the Class III and Class IV prices during a period preceding the month plus a fixed, geographically-specific "Class I differential." The Class II price for the month is essentially the Class IV price during a period preceding the month plus $.70 per hundred pounds of milk.

Several states, notably California, maintain state marketing orders that function in a manner similar to federal orders. Approximately 20 percent of the nation's milk is priced under state orders. Farmers marketing the small remaining portion of milk that is not regulated and priced under federal or state milk marketing orders nevertheless receive prices that are closely correlated with marketing order prices because market forces act to ensure that prices cannot fall far out of geographic alignment. Therefore, all U.S. dairy farmers are paid prices that are directly determined by prices for cheese, whey, butter and nonfat dry milk in the U.S. market. The prices for these four products are, in turn, determined by the forces of supply and demand for those products and are directly affected by imported dairy products.

Although the dairy price support program maintains a certain minimum price level for these products in the marketplace, that level of support is freely variable through regulatory action in the case of nonfat dry milk, for which markets are most directly affected by imported milk protein products. The Secretary of Agriculture has the authority to adjust the CCC purchase prices for butter and nonfat dry milk, as long as, together, the two prices are equivalent, on a milk basis, to the statutorily-established price support level. During periods when one of these products is in surplus but the other is not, prices of the product in surplus fall to the CCC purchase price level and the CCC purchases quantities of the product, while prices of the other product are maintained by market forces above the support level. When purchases of the surplus commodity are excessive during such periods of "component surplus," the Secretary of Agriculture has sometimes acted to reduce the CCC purchase price of that commodity and increased the CCC purchase price of the other product that is not in surplus. Due to the structure of the U.S. milk pricing system, just described, these "butter-powder tilts", as they are termed, result in reduced prices and incomes for dairy farmers.

As part of its 2004 report entitled the Conditions of Competition for Milk Protein Products in the U.S. Market, the International Trade Commission (ITC) studied just such an occurrence. According to the ITC, MPC and casein imports "contributed about 35 percent to the growth in CCC stocks during 1996–2002." (pages 9–3, 9–15). In response to a buildup in CCC purchases and inventories of nonfat dry milk as a result of this import replacement in the domestic milk proteins market, the former Secretary of Agriculture made two "tilts" over the course of a year and half. On May 31, 2001, the Secretary announced a reduction in the CCC purchase price for nonfat dry milk, from $1.0032 per pound to $0.90 per pound, and on November 15, 2002, the Secretary announced a further reduction to $0.80 per pound. The report's findings supported the linkage between CCC stock levels and the tilt measures, stating that "according to USDA officials, tilt adjustments were made in re-

sponse to growth in CCC stocks and the mounting purchase and storage costs to the Federal budget." (page 9–12).

Unfortunately, due to lack of documentation at USDA concerning the precise criteria used to determine whether and by how much the tilts should be made, the ITC was unable to state with certainty that the heightened CCC stock levels due to imports had led to the decision to implement the two tilts (page 9–17). Given the ITC's findings on each matter individually, however, the relationship between these two events is quite clear.

Figure 5, below, shows the results of a simulation analysis of the intermediate-term impact of these two butter-powder tilts on U.S. dairy producer prices and incomes. This analysis simulates dairy product prices, and the corresponding milk prices and farm incomes, that would have occurred had the tilts not taken place, and compares those with actual prices and incomes. Given the relatively short time horizon, it does not model the impacts of changes in supply and demand in response to the estimated price changes.

As shown, we estimate that these two tilts reduced U.S. dairy farm incomes by about two and one-quarter of a billion dollars and largely set the stage for the prolonged period of low milk prices throughout 2002 and the first half of 2003, when milk prices set new 25-lows for months at a stretch.

A particularly devastating aspect of such component surplus-induced price erosion is that supply cannot adjust in a straightforward fashion, as it can when an entire commodity is in surplus. Milk is produced with the two basic components, milkfat and nonfat milk solids, in relative proportions that do not vary much at all over time and under varying price scenarios. When the relative supply-demand situation for the two dairy components diverge over time, as they are currently doing in response to the growth in milk protein imports, there ensues a situation of growing price instability and market disruption that is not sustainable.

U.S. Milk Protein Imports Will Continue to Erode U.S. Dairy Farm Prices and Income

Based on simple time series analysis, which aggregates all causes of change in U.S. milk protein imports, including price trends, we estimate that annual imports of MPC and casein will rise to the equivalent of 1.3 billion pounds of nonfat dry milk by the year 2012, from a level of approximately 950 million pounds in 2004. This projected growth in milk protein imports over the next eight years is equivalent to more than 300 million pounds of domestically-produced nonfat dry milk, or 3.8 billion pounds of raw milk. This is over and above the "base levels" of displacement of production by milk protein imports in 2004, which is equivalent to 11.3 billion pounds of domestic milk production, representing the production of almost 600,000 cows of 2004 average productivity and more than 4,400 dairy farms of average size in 2004.

This continued growth in U.S. milk protein imports will likely impose significant pressure on the price support program, following the current period of unusually high international prices for nonfat dry milk, and ultimately lead to resumption of significant quantities of CCC purchases that would have the potential of rendering the price support program unmanageable. We have serious concerns that the dairy industry's cornerstone safety net policy, the dairy price support program, cannot remain stable and viable if burdened with removals of an additional 300 million pounds of nonfat dry milk per year. At current CCC prices, such additional purchases would cost the U.S. government about $250 million per year.

Using a simple economic model that takes into account the adjustments in domestic milk supply in response to price changes, we estimate that this projected growth in U.S. imports of milk protein products will further erode dairy farm prices and lead to a cumulative loss of U.S. dairy farm income of about $2.7 billion dollars between 2005 and 2012.

In Closing

The National Milk Producers Federation appreciates the opportunity to present its views to the House Ways and Means Committee with respect to the need for H.R. 521, the Milk Import Tariff Equity Act, in order to address the loophole in our tariff structure that imported milk protein products are currently exploiting. H.R. 521 would create tariff-rate quotas for these products, allowing a controlled amount to enter each year, but imposing a ceiling of sorts on the total quantity permitted to impact our domestic market—identical to the way the vast majority of traditional dairy products are dealt with in order not to undermine the U.S. dairy price support program and to ensure the health of the U.S. dairy industry.

[By permission of the Chairman:]

New Zealand Embassy
Washington, DC 20008
September 1, 2005

Congressman E. Clay Shaw Jr
Chairman
Subcommittee on Trade
U.S. House of Representatives

Dear Congressman Shaw

The New Zealand Government notes that HR521, a bill to impose tariff rate quotas on certain casein, caseinates and milk protein concentrates, has been proposed for inclusion in this year's Miscellaneous Tariff Bill. New Zealand is a significant supplier of milk protein concentrates, caseinates and casein to the United States and the creation of a tariff quota for these products would be detrimental to New Zealand's trading interests.

The current access regime reflects an overall balanced outcome of rights and obligations, as a result of negotiation and compromise by all WTO members during the Uruguay Round. It would be regrettable to upset this balance at a time when the United States and New Zealand (and other WTO members) are engaged in negotiating comprehensive and ambitious reforms to the global agricultural trading system in the Doha Round, to the benefit of both our agriculture industries.

Additionally, the May 2004 report of the U.S. International Trade Commission "Conditions of Competition for Milk Protein Products in the U.S. Market" showed that imports of milk protein concentrates did not impact on domestic farm-level prices for milk proteins and that there was only minimal impact on domestic milk protein production.

We therefore respectfully ask that HR521 not be included in the Miscellaneous Tariff Bill. My staff and I are available to provide further information or respond to any questions members of your committee may have on this issue.

John Wood
Ambassador of New Zealand

Novartis Corporation
Washington, DC 20004
August 30, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade
Ways and Means Committee
U.S. House of Representatives
1104 Longworth House Office Building
Washington, D.C. 20515–6354

Dear Mr. Chairman:

On behalf of Novartis Nutrition Corporation (NNC), I am writing to urge your Subcommittee on Trade to oppose efforts to include H.R. 521, the "Milk Import Tariff Equity Act," in the Miscellaneous Tariff Bill. We strongly object to H.R. 521 because it would impose a new and completely unjustified tariff-rate quota regime on imports of certain milk proteins, caseins and caseinate products, an action that would have very serious and harmful consequences for our company, and the patients we serve with our medical nutrition products. We urge the immediate deletion of this measure from the Miscellaneous Tariff Bill, and we will oppose its provisions if introduced in any other form.

The arguments used to justify this legislation in the past have been shown to be invalid. A May 2004 U.S. International Trade Commission study (Investigation 332–453, *Conditions of Competition for Milk Protein Products in the U.S. Market),* in response to a request by the Senate Finance Committee, concluded after a year-long review, that imports of milk protein concentrates, caseins and caseinates have had no direct impact on the farm milk prices paid to U.S. producers. Moreover, this bill is being proposed at a time when U.S. dairy producers are receiving some of the highest prices ever for their milk.

We believe legislation imposing tariff-rate quotas would jeopardize the supply of, and substantially increase costs for, imported milk protein concentrates (MPCs), casein, and caseinates. For these reasons, Novartis has consistently articulated opposi-

tion to the substance of such legislation, and we have vigorously questioned its justification. Congress did not pass similar legislative efforts in the past, and H.R. 521's inclusion in the Miscellaneous Tariff Bill, or any other legislation, is inappropriate.

Novartis Nutrition Corporation is a division of Novartis Pharmaceutical Corporation, headquartered in Basel, Switzerland. St. Louis Park, MN is the North American Headquarters of the division and home to manufacturing, warehouse operations, and corporate offices. In addition, our Minnesota headquarters serves as our Global Research and Development operations for Nutrition, In all, we employ over 750 people at this location. NNC manufactures a variety of medical enteral nutrition products that can be tube-fed or taken as oral supplements, most designed as part of overall treatment plans in a variety of disease states, including: diabetes, renal, pulmonary, and cancer treatments. We manufacture products for adult and pediatric use.

An essential component of our nutritional products is protein. The only dairy protein with the necessary functional characteristics for use in enteral formulas is caseinate. Other sources of dairy protein, such as fluid milk or nonfat dry milk, are not appropriate for this use. The following points explain the key reasons for the use of caseinate in our nutritional products:

1. Thermal process stability: Caseinates are stable under the thermal process conditions necessary to render a liquid product commercially stable. Egg white protein would coagulate under these conditions, resulting in a product that would not be deliverable via a feeding tube.
2. Low viscosity: Caseinates provide a low viscosity liquid product, which is essential when the product is delivered using a small diameter feeding tube. It may be possible to create a liquid using other high quality proteins, such as those derived from soy or meat; however, the resulting liquid would be of too high a viscosity to permit flow through feeding tubes.
3. Emulsion stability: Caseinates are excellent stabilizers of liquid complete nutrition products. The use of meat proteins and certain soy proteins in liquid tube feedings will, over time, result in the oil separating from the bulk phase, resulting in a product that appears spoiled, or defective.
4. Allergenicity and tolerance: Caseinates are lactose free. Fluid milk or nonfat dry milk, a domestic source of dairy protein, contains lactose, a milk sugar to which certain individuals are intolerant. In addition, other individuals are allergic to products containing egg. In other cases, individuals cannot consume meat products for religious reasons.

To our knowledge, suitable caseinates are either not manufactured in the United States, or manufactured in such low quantities that domestic production would not offset the negative impact of a tariff-rate quota. We have no alternative source of supply in the economic quantities necessary to make our nutritional products.

H.R. 521 could result in cost increases to NNC of at least $5.1 million. The narrowing and increased cost of supply ingredients would result in increased production costs that would have to be absorbed internally and/or passed on to consumers and patients—increasing the costs of essential therapies for individuals requiring medical nutrition interventions.

A tariff-rate quota applied to caseinates and MPCs, as provided in H.R. 521, would cause significant and unnecessary economic hardship to the medical nutrition industry and the patients who benefit from its life-saving therapies. We will either have to absorb the increased costs, pass them on to customers and patients, and/or engage in a lengthy process to reformulate a significant number of products in a search for alternative protein sources. This will cost millions of dollars and will drain resources away from developing new, innovative nutrition therapies. Even if we can succeed in finding suitable alternative ingredients, it is very unlikely that these alternative sources of protein will be domestically produced dairy products such as nonfat dry milk.

We appreciate your consideration of this important and very urgent matter. If you have any questions or need additional information, please contact me in our D.C. office.

Tracy Haller
Executive Director, International & Public Affairs

RetireSafe
Oakton, VA 22124
August 29, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1104 Longworth House Office Building
Washington, DC 20515–6354

Dear Mr. Chairman:

On behalf of RetireSafe's 367,000 senior citizen supporters across America, including more than 25,000 in Florida, we strongly urge your Subcommittee on Trade to reject efforts to include H.R. 521 (controversial legislation to impose new tariff-rate quotas on imported milk protein concentrate (MPC), casein, and caseinates) in the Miscellaneous Tariff Bill. H.R. 521 would especially harm older Americans, and RetireSafe will continue to oppose any measure that contains its harmful provisions.

Seniors are living longer, healthier lives for many reasons, including today's availability and affordability of critical nutritional products that utilize imported MPC, casein, and caseinate. Supporters of H.R. 521 would pile tariffs on these essential imported ingredients, in a punitive effort to price their use out of the market, even though there is no good substitute for them. Non-fat dry milk has never been a feasible replacement for MPC, casein, or caseinates in these popular and nutritional foods and drinks. The high lactose content, as well as the instability of the protein content, eliminates the possibility that non-fat dry milk could be used instead of the imported milk proteins. Thus, not only would the tariffs contained in H.R. 521 impose a "food tax" on consumers, punishing seniors on fixed incomes the most of all, it would also spell the demise of key nutritional products that the elderly depend on daily.

From the hundreds of common grocery items that make use of these irreplaceable milk protein imports to provide sought-after nutrient levels, consistency, and good taste, to senior-specific products like Ensure, and more specialized, life-saving medical drinks used in hospitals and nursing homes, the very ingredients H.R. 521 would make unavailable or unaffordable are absolutely critical to America's senior citizens.

For these reasons, RetireSafe has consistently opposed H.R. 521 and other similar measures. Any vote regarding any legislation containing the controversial provisions of H.R. 521 will be considered a "Key Vote" by RetireSafe and the senior-supporters we represent, and any such vote will be heavily weighted in any RetireSafe ranking of Congress. Again, we strongly urge you, and the Subcommittee on Trade which you Chair, to reject the ill-advised effort to include H.R. 521 in the Miscellaneous Tariff Bill.

Charles G. Hardin
President

U.S. Coalition for Nutritional Ingredients
Washington DC, 20005
September 2, 2005

Chairman E. Clay Shaw, Jr.
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1104 Longworth House Office Building
Washington, DC 20515–6354

Dear Mr. Chairman:

The U.S. Coalition for Nutritional Ingredients (the "Coalition") is a group of more than 40 taxpayer, consumer and senior citizen organizations, as well as trade associations and food companies that strongly oppose H.R. 521, the Milk Import Tariff Equity Act. This controversial legislation attempts to impose tariff-rate quotas (TRQs) on imported milk protein concentrate (MPC), casein and caseinates, which would lead to increased costs on a wide range of specialized consumer products.

The Coalition urges you to reject the inclusion of H.R. 521 in this year's miscellaneous tariff bill. This trade vehicle is traditionally reserved for non-controversial bills. In the case of H.R. 521, the economic and policy issues are highly divisive and

strongly contended. For example, enactment of H.R. 521 would create a regressive food tax, and would be a blatant violation of World Trade Organization (WTO) rules and U.S. international trade obligations. For these and other substantive reasons, the Coalition would vigorously oppose any legislative vehicle incorporating H.R. 521, including the miscellaneous trade bill, as well as any expedited process for consideration of such a vehicle. Therefore, we urge the Subcommittee on Trade to not include H.R. 521 in the miscellaneous tariff bill.

MPC, casein and caseinates are technologically sophisticated ingredients that are tailored to meet manufacturers' requirements. Unlike nonfat dry milk (NFDM) which contains lactose and low and varying levels of protein, MPC, casein and caseinate can be used in a wide range of specialized products to meet the market demand for products that contain little or no lactose, and have high and consistent levels of protein. MPC, casein and caseinates are not interchangeable with NFDM; they are different products, with distinct characteristics and unique applications.

Currently, these proteins enter the U.S. with minimal duties and are important ingredients in a variety of popular consumer goods and specialty foods that Americans enjoy each and every day including: processed cheese products, coffee creamers, convenience foods, frozen dinners, geriatric drinks, hypoallergenic infant formulas, sports bars, weight-loss beverages and nutritional drinks. These proteins are also used in many medical, pharmaceutical, cosmetic, animal feed and industrial products. Adding new tariff barriers would increase costs to U.S. users of these dairy ingredients. With the domestic market for these proteins significantly larger than domestic production, manufacturers would have no choice but to import the ingredients, pay the higher price, and pass the increased cost onto consumers.

H.R. 521 is Highly Controversial

This issue of raising tariffs on milk protein ingredients has been before Congress for many years and has caused much heated debate on Capitol Hill. To obtain an independent analysis of the situation, the Senate Finance Chairman requested an International Trade Commission (ITC) investigation into the economics of imported milk proteins over the period of 1998 to 2002. In May 2004, the ITC released a report on its year-long research. This document is the most exhaustive, authoritative and objective study of the matter. It supports most of the Coalition's arguments and sets forth no basis for new tariffs on imported dairy proteins. Despite the ITC's findings, supporters of the TRQ continue to urge legislators to enact H.R. 521. Simply put, H.R. 521 is highly controversial and including this bill in the miscellaneous tariff bill could jeopardize the expedited process that has traditionally benefited this legislation.

Foreign Government Practices Are Not the Culprit

H.R. 521 supporters maintain that foreign government practices and trade policies are the major factor driving milk protein imports. Specifically, they argue that large subsidies given to European Union (EU) producers hinder the ability for U.S. producers to compete with imports and preclude the development of a U.S. casein, caseinates and MPC industry.

In its report the ITC rejects the basic premise of this argument in noting that "if price leadership exists in the U.S. MPC market, it is exercised by the Oceania countries." [1] Further, the ITC report states that due to "dairy policy changes in the EU, it is unlikely that the conditions that contributed to the increase in imports from 1998–2000 will be repeated in the future." [2] In fact, the most recent data backs up the ITC's analysis, as imports of low protein "blended" MPC from the EU have disappeared. Currently, 90% of the imported milk proteins come from Australia and New Zealand, where there is no government intervention in the dairy markets. Moreover, the vast majority of these imports contain at least 70 percent protein, and as such are not substitutes for NFDM, while what MPC is now being imported from the EU is product containing 80 percent or more protein that does not receive export subsidies. Furthermore, what production aid that did exist for casein in the EU has been virtually eliminated since 2003 rendering that program irrelevant.

Additionally, U.S. MPC commercial production has begun in Portales, New Mexico without a U.S. subsidy; dispelling any idea that the U.S. producers are not able to compete against imports. The plant in Portales is profitably responding to the market demand for MPC and is running at full capacity. As a result of its success, a second plant is being developed in Arizona to meet market demand, and when both

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[1] Conditions of Competition for Milk Proteins in the U.S. Market, Investigation No. 332–453, USITC Publication 3692, May 2004, 9–4

[2] Conditions of Competition for Milk Protein Products in the U.S. Market, Investigation No. 332–453, USITC Publication 3692, May 2004, xxix

plants are operational (not to mention the prospect of additional capacity) nearly half of U.S. domestic demand will be met by U.S. domestic production—a dramatic change from just over 2 years ago.

There is no U.S. Trade Law "Loophole"

TRQ supporters argue that imports of milk protein are circumventing U.S. trade laws by entering through a "loophole" in the U.S. tariff schedule. However, the ITC specifically refuted the "loophole" argument noting that both Congress and the President had carefully considered the tariff treatment of casein, caseinates and MPCs. Imports of these products have never been subject to Section 22 quotas following formal investigations. In 1984, long before the Uruguay Round negotiations, Congress created specific tariff lines to account for MPCs, that were not subject to quota. Furthermore, in 2003, U.S. Customs found that imported MPCs, casein and caseinates did not circumvent nonfat dry milk TRQs, and were correctly classified under non-quota provisions.

H.R. 521 Violates U.S. Trade Commitments

Increasing tariffs on MPC, casein and caseinates would violate our WTO obligations and the U.S. Free Trade Agreement with Australia. In these trade pacts, the U.S. has agreed to maintain a certain level of duties. If the U.S. unilaterally decides to raise its bound tariffs, Australia and other countries supplying these dairy proteins to the U.S. market must be compensated or they have the right to retaliate by imposing trade sanctions on U.S. exports.

In addition to the economic effects of compensation and/or retaliation, the U.S. would lose its credibility to negotiate reduced trade barriers in the WTO Doha Development Agenda. As a leader in advocating free trade, it would be fundamentally inconsistent for the U.S. to erect any new trade barriers. Supporting H.R. 521 is contrary to U.S. trade principles and would undermine our mission to liberalize trade in the WTO Doha Round and future trade agreements.

Milk Protein Imports Do Not Affect Domestic Milk Prices

Proponents of the TRQ argue that U.S. imports of MPC, casein and caseinates depress milk prices. However, the U.S. Department of Agriculture 2004 all-milk price paid to farmers was $16.04 per hundredweight (cwt), the highest ever, while the average has been $13.57 cwt for the last ten years. The forecasts for 2005 peg the all-milk price as the third highest on record.

The 2004 ITC report also found that there was no direct relationship between imports of milk proteins and farm milk prices over the study period. The report stated that "[t]he data do not show a clear and direct relationship between imports of milk protein products and the all-milk price in all years."[3] The report also noted that the ITC reviewed a broad range of studies by prominent dairy economists and, "[e]ven though these studies differed in terms of modeling approaches, commodity coverage, and base year, they generally found that imports of milk protein products have had little impact on farm-level prices in the U.S. market."[4]

Milk Protein Imports Do Not Displace Domestic Milk Production

TRQ supporters have made the argument that imports of casein, caseinate and MPC have displaced domestically produced milk proteins, principally NFDM, in the U.S. marketplace. However, the U.S. domestic market is extremely robust for NFDM notwithstanding the imports. The most recent data, as reported by the U.S. Dairy Export Council, indicates that NFDM prices in June 2005 averaged 16% higher than the Commodity Credit Corporation (CCC) purchase support price. Additionally, the CCC has not bought NFDM for 35 weeks. Further, the ITC report concluded that imports of casein, caseinate and MPC may have substituted for only 1.27 percent of U.S. milk protein production from 1998–2002.

In sum, there are many substantive reasons to reject H.R. 521. The bill is a poster child for trade protectionism; is anti-consumer; violates U.S. trade agreements and is damaging to U.S. trade objectives in the current WTO Round. For all these reasons we urge the Trade Subcommittee to omit H.R. 521 from the miscellaneous tariff bill.

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[3] Ibid, 9–4
[4] Ibid, 9–23

On behalf of the following consumer organizations, associations and food companies and employees, we appreciate your consideration of our views.

American Bakers Association
American Feed Industry Association
Americans for Tax Reform
American Frozen Food Institute
American Meat Institute
Arla Foods Ingredients, Inc.
BL Ingredients, LLC
ConAgra Foods, Inc.
Council for Citizens Against Government Waste
Committee to Assure the Availability of Casein
Consumers for World Trade
Davisco Foods International
Dean Foods Company
DMV International Nutritionals, Inc.
Erie Foods, International
Euro Proteins
Fonterra (USA), Inc.
Food Distributors International
Food Products Association
General Mills Inc.
Glanbia Ingredients, Inc.
Grocery Manufacturers of America
Hershey Foods Company
H.J. Heinz Company
IDB, Inc.
International Dairy Foods Association
Kerry Inc.
Kraft Foods Global, Inc.
Lactalis/Sorrento, Inc.
Lactoprot USA, Inc
Masterfoods USA
National Confectioners Association
National Taxpayers Union
National Frozen Pizza Institute
Nestlé, USA
Novartis Nutrition
Pet Food Institute
RetireSafe.org
Sargento Foods Inc.
Slim-Fast Foods
The Schwann Food Company
Saputo Cheese USA, Inc.
Schreiber Foods, Inc.
Snack Food Association

Davis, California 95617
August 31, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan.

This legislation is necessary because archaeological sites are now being looted on a large scale in Afghanistan. The heritage of Afghanistan has played an important role in the world's historical and cultural development. The looting of sites destroys the historical, cultural, religious and scientific information that is derived through the careful, systematic excavation of sites. When this record is destroyed we are all the poorer for it.

The looting of sites and theft from museums in Afghanistan have been significant problems for many years. As with Iraq, the United States has undertaken a special relationship with Afghanistan. Concern for preservation of the cultural heritage of Afghanistan must be given equal consideration.

Sites are looted of antiquities so that they can be sold ultimately to markets in Western Europe and the United States. It is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials and thereby reduce the incentive for theft and destruction of archaeological sites. Enactment of this legislation will help the United States to fulfill its obligations to the Afghan people and help to enrich our understanding of the world's and our own cultural heritage.

Thank you,

Muzhdah Aimaq

American Numismatic Association
Colorado Springs, Colorado 80903
August 24, 2005

E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade
Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Dear Chairman Shaw:

I am writing on behalf of the American Numismatic Association (ANA) to oppose the imposition of import restrictions on coins proposed in conjunction with H.R. 915 (the Cultural Conservation of the Crossroads of Civilization Act).

The ANA is a nonprofit, educational organization chartered by the United States Congress to promote the study and collection of money and related items for research, interpretation and preservation of history and culture from ancient times to the present. The ANA has almost 33,000 active members in the United States and our numbers are growing. Many of our members collect Greek coins struck thousands of years ago in what is now Afghanistan. Others collect more obscure money that circulated in the area, including coins struck by the Mauryan Empire, the Kushans, the White Huns, the Turks, the Mongols, and the Savid Dynasties.

Although the ANA supports reasonable efforts to protect Afghan collections and archaeological sites, the ANA is concerned that application of import restrictions to numismatics, including coins, paper money, tokens and medals, will adversely impact the longstanding legitimate trade and collecting of any such items. Typically, numismatic items do not carry any provenance with them, particularly of the sort contemplated by U.S. Customs under the governing statute. Thus, a legitimate holder of numismatic material may not be able to establish the necessary historical ownership of legally purchased numismatics to avoid forfeiture of his or her collection under the contemplated import restrictions. Likewise, numismatic items are not the type of cultural antiquities that should be included in H.R. 915. Coins and other forms of money were often mass produced making them a common circulating item of trade and barter rather than the type of antiquity intended to be protected by H.R. 915.

U.S. citizens have enjoyed collecting ancient money since the American Revolution (and citizens of the Colonies enjoyed coin collecting before the revolution). President John Quincy Adams was a serious collector of ancient Greek and Roman coins. Other Presidents like Theodore Roosevelt and, more recently, Ronald Reagan and Bill Clinton have appreciated owning the type of coinage that would be covered under any proposed restrictions. There is no supportable reason that could be advanced to impose import restrictions on coins, particularly given the harm the imposition of import restrictions would cause to legitimate collectors and individuals dealing in such numismatic items.

By providing an exemption for numismatics, we believe that Congress can still achieve the goal of protecting "culturally significant" Afghan antiquities while preserving numismatics as an important historical and cultural resource for future generations of Americans. On behalf of the ANA and its nearly 33,000 members, I hope that the Subcommittee on Trade will exclude numismatics from the import restrictions of H.R. 915. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Christopher Cipoletti
Executive Director

American Numismatic Society
New York, New York 10038
August 20, 2005

E. Clay Shaw, Jr.
Chairman
Subcommittee on Trade
Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Dear Mr. Chairman:

We are Trustees of the American Numismatic Society (ANS). The ANS, founded in 1858, is arguably the nation's premier numismatic institution, and the only one with the unique honor of displaying the highlights of its collection at the Federal Reserve Bank of New York. We are writing in our individual capacity solely as concerned citizens to oppose efforts to impose restrictions on Americans importing coins based at least in part on erroneous information contained in the subject legislation.[1]

In particular, we express deep concern about proposals to shift the legal burden of proof to show that a particular coin did not come from a country with restrictive cultural property laws onto collectors, professional numismatists and institutions holding coins. Such proposals seek to deter the entrance of looted materials into the numismatic trade, but at the cost of imposing an unfair, unworkable and unnecessary burden on those holding coins legitimately. Domestic law already bars entry of any coins or other artifacts that are proven to be stolen, and there are less intrusive means of encouraging preservation of archaeological sites in source countries. These means include better policing of archaeological sites, public education programs, reasonable regulation of metal detectors, and promulgation fair laws that encourage members of the public to report their finds with the prospect of an award. In contrast, it is unfair to assume that collectors, dealers and institutions holding coins can show their provenance when millions of historical coins have been widely traded since the Renaissance without any requirement to show their chain of ownership.

A distinctive feature of coinage compared with those of most other artifacts explains the reason why it is so difficult to establish a coin's origins. Today, a nation issues money for circulation within its particular boundaries as a symbol of its jealously guarded independence. However, historically, and until quite recently, it was commonplace to find a variety of coinages in circulation within any given country. Such a situation was indeed the case in the U.S. before foreign coins were demonetized in 1857. Given wide circulation patterns, determining the provenance of any coin or coins residing in a museum or private collection is usually deemed impossible.

American citizens have enjoyed collecting historical coins since before the American Revolution. Serious American collectors of ancient and foreign coins have included President John Quincy Adams. Teddy Roosevelt is said to have carried an ancient Greek coin as a pocket piece, and ancient Greek coins of the sort contemplated for potential restriction inspired his "pet project" to redesign our own coinage in the early part of the 20th Century.

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[1] One of the major predicates for the bill's "emergency import restrictions" is the claim at finding 16 that, "100 percent of the objects [from the Kabul National Museum] were stolen and vandalized." However, it has now been reported that most of the important items thought to be missing from the Afghan National Museum (including coins) have in fact been found in excellent condition.

By providing an exemption for coins, we believe that Congress can still achieve the goal of protecting "culturally significant" Afghan antiquities while preserving numismatics as an important historical and cultural resource for future generations of Americans.

Sincerely,

John W. Adams
Boston, MA

Kenneth L. Edlow
New York, NY

Prof. Peter P. Gaspar
St. Louis, MO

Robert A. Kandel
New Rochelle, NY

Clifford L. Mishler
Iola, WI

Emilio M. Ortiz
San Juan, PR

Douglass F. Rohrman
Kenilworth, IL

Stanley DeForest Scott
New York, NY

David B. Simpson
Tenafly, NJ

Peter K. Tompa
Washington, DC

Arnold-Peter C. Weiss, MD
Barrington, RI

John Whitney Walter
Plandome, NY

American Schools of Oriental Research
Boston University
Boston, MA 02215
19 August 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

As Executive Director of the premiere North American organization conducting archaeological research in the Middle East, I worry deeply about any losses in the archaeological record which might take away from our understanding of or appreciation for world culture. But I am especially concerned about preserving the cultural heritage of countries within the arena of our work. The American Schools of Oriental Research (ASOR) was founded in 1900 and has been working for the past century plus to understand and preserve for posterity the material culture of the broader Middle East.

In order to contribute to the accomplishment of this task, ASOR has adopted strict policies governing antiquities from the region (http://www.asor.org/policy.htm), which are based on international laws and the intentional cooperation among countries around the globe. Looting of sites and trafficking in artifacts represent a global scourge and we want to support any legislation which will stem the rising tide of illegal exporting and importing of these irreplaceable material cultural remains.

In the spirit of these principles and goals, I wish to add my voice to those urging your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs

bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan. This legislation is necessary because archaeological sites are now being looted on a large scale in Afghanistan. The heritage of Afghanistan has played an important role in the world's historical and cultural development. The looting of sites destroys the historical, cultural, religious and scientific information that is derived through the careful, systematic excavation of sites. When this record is destroyed we are all the poorer for it. The looting of sites and theft from museums in Afghanistan have been significant problems for many years. As with Iraq, the United States has undertaken a special relationship with Afghanistan. Concern for preservation of the cultural heritage of Afghanistan must be given equal consideration.

Sites are looted of antiquities so that they can be sold ultimately to markets in Western Europe and the United States. It is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials and thereby reduce the incentive for theft and destruction of archaeological sites. Enactment of this legislation will help the United States to fulfill its obligations to the Afghan people and help to enrich our understanding of the world's and our own cultural heritage.

Cordially,

Douglas R. Clark, Ph.D.
Executive Director

Ancient Coin Collectors Guild
Gainesville, Missouri 65655
September 2, 2005

Dear Congressman Shaw;

The provisions of H.R. 915, as proposed, call for import restrictions on antique and ancient collectable coins. The Ancient Coin Collectors Guild respectfully opposes any such restrictions. Coins, first of all are typically not significant cultural property since they were produced in huge numbers and by design were exchanged across national and cultural boundaries, both in antiquity as monetary instruments and in modern times as collectables. The value of coins as cultural ambassadors is tremendous and this fact is well recognized by the government of Afghanistan.

In a letter from the Afghan Embassy to the Ancient Coin Collectors Guild, First Secretary Hekmat Karzai wrote: "Clearly, it is vital for Afghanistan to preserve its heritage, yet we also recognize the need to teach individuals about the wonderful history of Afghanistan. We have to find a balance where both of the objectives are met." We absolutely agree. The way to achieve this balance is not through import restrictions, but through cooperative efforts to identify stolen property, enforce existing laws against looting, and return stolen items to Afghanistan when they are recovered.

The ACCG has offered to facilitate the latter by hosting a recovery center on the guild website and launching a serious campaign among private collectors to recover any items which enter the market illegally. Private collectors have been vilified by certain ideologically driven members of the archaeological community and much publicity has attended the release of Roger Atwood's "Stealing History: Tomb Raiders, Smugglers, and the Looting of the Ancient World. There are approximately 50,000 collectors of ancient coins in the United States and they simply do not represent an "evil" force. This point is made clear very well in a recent review of the Atwood book by Dr. Alan Walker. Dr. Walker received his training as a Classical Archaeologist at the University of Pennsylvania and has the unique perspectives of an archaeologist and a professional numismatist. The review is published online at http://accg.us/issues/editorials/pro/walker along with other topical articles. I attach this review here for inclusion into the record on this issue because it presents an articulate and passionate counterpoint to the arguments typically used in condemning the collector market and private ownership of virtually any cultural property. Please consider the serious impact on American citizens that the proposed import restrictions of H.R. 915 would unnecessarily create.

Respectfully yours,

Wayne G. Sayles

Stealing History. Tomb Raiders, Smugglers, and the Looting of the Ancient World. By Roger Atwood. New York, 2004. 337 pp., frontispiece, map, 27 photos. Cloth-bound with dust jacket. (ISBN 0–312–32406–5) $25.95

This is a fascinating, disturbing, well-written and very pernicious book that beautifully blends true facts with skewed and, often, very biased reasoning to produce a perfect example of the politically correct anti-collector, anti-museum and anti-art trade propaganda we hear all the time from radical archaeologists and their allies. I think this book has received a tremendous amount of hype and will have a great deal of influence, so it is important that all collectors, especially including coin collectors, know what's in it and know how to react when and if they are challenged, or even attacked, because of their collecting interests.

RA's basic focus is on two areas in which he has more than a little expertise, Peru, where there has long been widespread looting of tombs for objects in precious metal, terracotta figural pottery and fabrics, and in Iraq, where there has been widespread looting of virtually everything. Extrapolating worldwide, he firmly believes that unless something is done, all accessible archaeological sites will be totally destroyed by looters by 2050. Needless to say, what he thinks needs to be done is to basically ban the collecting, whether by public or private institutions or by individuals, of anything without a full provenance (and what he means by *provenance* is a secure chain of ownership going back to a licensed excavation; with, in addition, proof that the object legally left the country in which it was found—this means that lots of material properly excavated and then taken out of countries in the 19th century falls under a cloud because, officially, it shouldn't have left). In addition, he also insists on making the assumption (in common with the radical archaeologists) that anything lacking a provenance simply has to have come out of the ground very recently. Another brilliant idea he has is to slap "an indefinite worldwide moratorium on trade in undocumented antiquities made of gold, silver, and other precious metals" (p. 244). This, he thinks, would be a terrific help in the fight against looting because he believes that looters mostly search for gold objects, tossing out or destroying other things they find as worthless. Of course, it actually shows how out of touch with reality RA is: for thousands of years looters *only* searched for precious objects, which were, in fact, invariably melted down (the spectacular Brescello Hoard of 1714, which contained *ca. 80,000* late Republican aurei—the latest being Crawford 534 of 38 BC—was, after the rarities were sorted out and a relatively small number of other pieces went off to collectors, almost entirely used to make ducats!). While looters may well throw out pots in Peru (they have apparently found so many that there is no market), they don't anywhere else, so all RA's idea would do is ensure that all precious metal objects would be treated as they used to be: melted into convenient and anonymous bars.

Trying to argue in favor of collecting, whether public or private, is very difficult because radical archaeologists have done a very good job of occupying the moral high ground. To them, and to the vocal supporters of the UNESCO accord of 1970, virtually all private ownership of cultural objects is an anathema; thus, it is easy for them to condemn all their opponents as heartless, greedy, elitists who profit from the destruction of mankind's past. Yet there are a lot of facts that RA and others of his ilk are very good at selectively ignoring: some that they don't like, and some that they think might, perhaps, confuse the issue.

For example, why is it that the looting problem in England is so much less drastic than in other areas of the world? The answer probably is that the essential fairness of the British system makes it very likely that honest finders will report anything they discover because they know they will be treated properly. If the state lays claim to what they have found they get a very fair reward (usually equal to the effective market value), otherwise they get to do whatever they wish with their discovery. When builders run into archaeological remains during the course of construction projects, rescue excavations are carried out, but the builders are given full recompense for the time lost. In addition, landowners never have to worry about having their lands expropriated by the state for archaeological reasons with minimal compensation. As in the U.S., the state can utilize its powers of eminent domain, but the owner must receive the land's full market value.

Elsewhere, of course, especially in the major source countries, all objects found in the ground, whether on public or private land, *ipso facto* belong to the state, with no right of private ownership whatsoever (this is the case in Egypt, among many other places). Rewards, if given at all, are arbitrary in nature and usually have no relation to the object's national or international market value. Farmers or builders who run into archaeological remains can find themselves in severe trouble: farming land can be expropriated at an arbitrarily low value, especially if the landowner lacks political connections (since archaeological remains preclude building or farming work, the land's value is automatically downgraded to benefit the state), and

building work can be held up for so long, with negligible compensation, that the contractor and the owner can suffer severe financial losses, if not bankruptcy (this does not happen, of course, with state projects). Therefore, it often seems better for builders to bulldoze ancient remains than to report them. The fact that landowners lack ownership rights in objects found within the soil means that there is absolutely no incentive for them to protect their land from looters (especially since looters occasionally pay the landowners a fee for 'allowing' them to dig, while reporting ancient remains to the authorities can lead to expropriations). It should be immediately obvious that draconian confiscatory laws that provide little or no fair compensation to honest finders or landowners simply have to be counter-productive: Italy has had laws like that for generations, and for generations people have ignored them because they were so blatantly unfair. After all, if a farm or an estate has been owned by a single family for generations, why should the state own everything found there and not the family?

Another fact, which is almost entirely ignored by RA and the archaeologists, is that people in most of the source countries are often rather impoverished. This clearly is a major reason why chance finds and looted material are sold rather than turned into the government. After all, the average annual per capita income in Peru is something like $5000 (but with most rural villagers making less than half of this amount) so selling a small object for $20 or $50 or a few $100 can make a real difference in the seller's standard of living. This is true in virtually every source country (the per capita income in Turkey is about $6600—much higher in the big cities and far lower in rural districts). Fair and prompt rewards, *based on local circumstances* (i.e., if an object is worth $50,000 on Madison Avenue, but the local runner will only pay $400 in Turkey, a reward of $550 will do perfectly), would end a great deal of destruction. A perfect example is the famous Dekadrachm Hoard found near Elmali in Turkey. At the time it was found Turkish law apparently provided for rewards, but only up to a certain amount of money. No matter what a coin was, the maximum the finder could expect was the equivalent of $150—if a group of coins was found, the maximum reward, regardless of what they might be or how many they were, was $6000. The villagers probably knew this and so took their coins to a middleman who paid them, according to court papers, the equivalent of $168,000—*twenty-eight times what the official reward would have been!* As everyone knows, this hoard ultimately went for $4,000,000 (*over 660 times the official reward!!*) to an American consortium; then, after years of legal wrangling, it went back to Turkey. Can you imagine how much the Turks must have paid in legal fees? One European numismatist had an hour's talk with Larry Kaye, the lead attorney for Turkey, and his assistant, a junior lawyer brought along to act as secretary: this probably cost the Turks $500 for the senior lawyer, $300 for the junior and $20 for the coffee! And this case must have consumed thousands of billing hours!

Obviously, had Elmali been in England, the hoard probably would have been reported when it was found, would have been properly excavated with exploration of the surrounding area, would have ended up in the British Museum, and the proud finder and the land owner would have divided a multi-million reward (as actually happened with the famous late Roman Hoxne hoard, discovered in 1992). But, someone will say, Turkey doesn't have that kind of money. True, but if those villagers would have been confident that they'd get a tax-free, legal, reward of $175,000 or $200,000, a fraction of what the hoard was worth internationally but more than they would have received selling on the black market (and a fraction of what Turkey must have paid in American legal fees), they'd have turned it in like a shot! Wouldn't this have been better for archaeology?

Villagers are not stupid: if they feel that their own government is cheating them or, in fact, stealing from them, they will refuse to turn in the things they find. Is this the fault of collectors?

In fact, isn't it clear that bad laws in the source countries are a major factor contributing to why finds go unreported, sites are damaged or destroyed, and smuggling is rampant? Why aren't archaeologists clamoring for the source countries to change their laws into ones like those in England, where finders are treated so fairly that an ever increasing amount of often vital archaeological information has been gathered thanks to the enthusiastic cooperation of finders and landowners (for the astonishingly successful Portable Antiquities Scheme, see http://www.finds.org.uk/index.asp)?

Why, indeed?

Now we come to the very important part that political correctness has to play in the debate over antiquities. As everyone knows it has become very fashionable to blame the rich western European powers, and by extension the Americans, for most of the world's ills. Among left-wing academics it is normal to view white males of western European origin as being responsible for colonialism, racism, sexism, cap-

italism, class divisions, slavery, all manner of oppressions, and, of course, for the pillage of wealth, artifacts and works of art from lesser developed and Third World states (it should be noted that ALL source countries consider themselves to be part of this general class of countries). Thus, suggesting that such countries enact rational laws in emulation of Great Britain is a complete non-starter: after all, didn't Britain colonize vast areas of the world; weren't treasures from Greece, Italy, Turkey, India, China, the Middle East, Nigeria, Egypt, et al., taken by British travelers, bought by English lords, or looted by British armies, all to adorn museums in Great Britain? In many ways the irrational nature of many source country cultural heritage laws is simply a reaction against the events of the past: "Those clever Europeans tricked us by taking so many artifacts from our country at a time when we couldn't resist them (*and, to be honest, at a time when we actually didn't want any of it since we thought it was valueless and that the foreigners were crazy!), so now we are going to keep everything!*" Thus, there are museum store rooms in the source countries that are positively jam packed with objects, most of which will never be on display and many of which have never been published (the store rooms of the archaeological museum of Naples are notorious in this regard): if some of this material was sold, after being recorded, there would be more than enough money to publish, inventory, conserve and display all the rest.

But why don't all those American and western European archaeologists, who are such vehement defenders of ancient sites in the source countries, try to get those ineffective laws changed, rather than just attacking collectors, museums and dealers in their own countries? The simple reason is that it is against their interest to do so.

Any foreign archaeologist who wants to excavate a site or study museum material in a source country has to get an official permit from that country's ministry of culture to do so. Such permits are not just given out to anyone who asks: usually foreign scholars have to go through their own country's institute in the source country (like the American, Australian, Austrian, British, Canadian, French, German, Italian, Swedish, Swiss, etc. institutes in Athens), and they have to meet certain standards. One absolutely sure way of NOT getting a permit is to say or do something that source country officials don't approve of; like, for example, suggesting that the country's laws ought to be changed because they don't work and are counter-productive. No American archaeologist working, or wanting to work, in Turkey would ever be crazy enough to publicly criticize Turkish laws, since that would result in a rather rapid career-change once the Turkish authorities heard of it (just for fun, if you really want to get a foreign archaeologist working in Turkey really upset, try getting him or her to express a *public* opinion on who was responsible for the genocidal massacres of the Armenians that took place in Asia Minor in the late 19th century and during World War I—you may be amazed to find that a distinguished professor, highly knowledgable about ancient and medieval history, just so happens to know nothing at all about modern history). In a well-known case that resulted in an American dealer returning a group of Mycenaean jewelry to Greece, it is said that one of the reasons why he decided to settle and not fight it out in court is that he could get no recognized expert in Mycenaean art to testify on his behalf: specifically that Mycenaean objects could be found in many places in the eastern Mediterranean (Italy, Cyprus, the Levant and Egypt) rather than just in Greece, as the Greek government maintained. The obvious reason why they wouldn't is that if they did so they would be banned from working in Greece for life.

The converse is true when an American archaeologist attacks collectors, dealers or museums in the U.S. for having material that he believes was looted from the source country where he excavates: he becomes a hero! This is how it works. The American professor makes an impassioned speech, demanding that some item or other be returned to Italy from the Metropolitan Museum of Art in New York. This speech gets reported in a number of Italian papers, the professor is given an award by an Italian heritage group, he gets accolades from Italian archaeologists, and his excavation permit is speedily renewed. Back in the U.S., the Metropolitan issues a dry statement about legal ownership but otherwise ignores our professor (to be sure, they probably won't give him a grant). There are no reprisals and his stature will be enhanced among his peers. The same thing would be true if he attacks American private collectors—he looks good and nothing bad happens to him (of course, if a junior faculty member launched a violent diatribe against a collector, not knowing that the collector was an alumnus of the university in which he teaches and that the collector *had up to that point* intended on donating $50 million for a new gymnasium, our young professor's chances for tenure might evaporate—but then he'd become a martyr for academic freedom and advance his career).

Thus, it ought to be obvious that every time one of the radical archaeologists attacks collectors and the antiquity trade in America and in Western Europe for being the primary cause of looting, he may be sincere, but he is neither unbiased nor honest. Rather, by focusing solely on the trade, he is, for political reasons, deliberately ignoring all the contributing factors caused by unfair and impractical laws in the source countries (that would be "blaming the victim"). The really radical even go so far as to object very strongly to rewards because they believe a) that since the state claims all objects discovered in the ground, it is the duty of every citizen to turn in anything found, thus making rewards unnecessary (in some countries even picking up something lying on the ground is against the law!); b) that basing rewards on market prices is highly improper because if the trade itself is illegal in the source country, basing rewards on the prices for items that reached foreign markets illicitly is absurd since those prices should be ignored; c) that most source countries are relatively impoverished so that the payment of rewards would be an unacceptable expense; and d) that since looting is clearly the fault of wealthy collectors in the West, eliminating the collectors would eliminate any need for rewards.

RA also goes on and on about how much valuable evidence is lost due to looting, and how many 'priceless' artifacts are lost to the source countries. In fact, this is a refrain constantly heard whenever the radical archaeologists attack collectors; but is it true? Yes, to some extent it is. A complete tomb complex can tell us a tremendous amount about the occupant and the society in which he lived, but when it's looted, the finders will only be looking for salable objects (which are often dispersed so that their connections are lost) and will dig through and destroy organic remains and poorly preserved minor items that would have told archaeologists a great deal. This, of course, is not the case when something is professionally excavated, especially when it is published and made available for study (not always the case, alas): yet just because it is properly excavated does not necessarily mean that it is of any importance. After all, there are many things that are found, which are of types we already have, or provide evidence for things we already know. For example, one old-time classical archaeologist arranged for state-of-the-art water sieving and other evidence-retention methods to be used for an excavation of a Greek urban site. Aside from tiny fragments of wine and oil vessels, plates, cups and cheese strainers, and bones from meat animals such as goats, sheep, cattle and swine, among the items found, which otherwise might not have been, were grape and olive pits, remains of pulses and legumes, and fish bones. But, as he remarked later, "we already knew from ancient literature that the ancient Greeks, like the modern ones, ate olives, grapes, beans, lentils, various kinds of meat, fish and cheese, drank wine and used oil. Was spending all this money and effort to confirm what we already knew worth it?" The answer is, of course, probably not. In fact, while often not mentioned it is no secret that vast numbers of unimportant artifacts found in excavations are dumped after study (they tend to be used as fill for fully excavated ancient wells) since they tell us nothing and there is no need, or space, for their storage (for example, if excavators discover a room containing 25 complete and c. 100 fragmentary storage amphorae, all of the same type, they will probably retain all of the complete ones, but only a very small number of the fragments—perhaps destined for destructive analysis—with the rest being dumped).

The most extraordinary comment, now made constantly, is that the artifacts being looted are "priceless treasures of inestimable value", not only for the cultural heritage of the country involved, but on the market as well. For example, at the time of writing there has been a big hoo-haa about a Marine who bought eight cylinder seals from a trinket seller in Iraq for $200, and brought them back home with him. Curious about what they were, he went to the University Museum in Philadelphia and asked about them. Well, the curator there immediately recognized them as 'priceless treasures' [actually he is reported to have said they were worth $25,000!!!] that had to have come from ancient Mesopotamia (which was smart of him considering he was the curator of Near Eastern Art), and that they had to have been exported illegally from Iraq. He immediately contacted the FBI. The Marine was shocked and very properly and honestly turned them over to the FBI to be repatriated to Iraq (they are now temporarily on display in the University Museum; see, http://www.fbi.gov/page2/feb05/iraqstones022305.htm—you can find images of all eight on the web as well). The media went crazy about this wonderful return of these rare and exciting and oh so important and valuable objects. But, of course, no one has bothered to ask whether they are *really valuable or important* . . . and, sorry to tell you, *they're not.* They are surely real, but all eight, to my untrained eye, are of known types (found in museum and private collections all over the world, including Iraq, and in dealers' stocks); are of no particular artistic, historic or archaeological importance; and, altogether, might be worth $2000 (in a major

Christie's or Sotheby's antiquity sale none would be worth selling as a single lot; in fact, all eight would be sold together). What's going on?

The simple fact is that the VAST majority of objects that the radical archaeologists and their media friends term 'priceless treasures of cultural heritage' are neither priceless nor treasures. Since the archaeologists are not stupid, why do they make these claims? After all, they didn't used to; quite the contrary.

Not that long ago the radical, anti-collector archaeologists spent a great deal of effort trying to convince the world that ancient objects were, in fact, *just junk of no real value, unworthy of being collected.* The reason why people wanted them, or 'esteemed them' as the radicals would say, is that dealers hyped them up, in the same way that the 'art' of Damian Hirst and Jeff Koons has been. In their eyes, ancient objects were worthy of being in museums where they could be studied by real scholars (such as themselves), but private collectors were making fools out of themselves by collecting them. There are two absolutely iconic studies in this vein, both roughly contemporary. The first, by Michael Vickers and David Gill, *is Artful Crafts: Ancient Greek Silverware and Pottery* (Oxford 1994). Vickers is a very good scholar who likes shaking things up and is, perhaps, most familiar to numismatists from an article in NC 1985, entitled, *Early Greek Coinage, a Reassessment* (pp. 1–44) in which he tried to radically down-date the beginning of ancient Greek coinage. His well written and thought provoking theories were, three years later, totally demolished by Margaret C. Root's wonderful article in NC 1988, *Evidence from Persepolis for the dating of Persian and archaic Greek Coinage* (pp. 1–12). In *Artful Crafts* he argued that all Greek painted pottery (Black Figure, Red Figure, White Ground, etc.) was designed to be a cheap imitation of the luxurious gold, silver and ivory vessels supposedly used by the rich, and was, in itself, of no importance. Thus, it had nothing to do with Greek painting, only with metal work, and all the years of research by art historians into 'hands' and named artists was mostly a waste of time. For him, Attic Red Figure was related to the true art of precious metal vases in the same way as Martha Stewart porcelain at Walmart was related to Royal Copenhagen: i.e., not at all! He even suggests that the history of the 'esteem' for ancient painted pottery goes back to the dealers who worked to sell Lord Hamilton's large collection of 'vases' (the radicals prefer to call them pots because 'vase' has a connotation of class and value!) by convincing 'gullible' collectors that they represented the finest of Greek art, rather than as the *Melmac* that he would prefer to see them as! The underlying message was, "You stupid collectors, you've been fooled for 200 years into thinking this crap was art, even though it was made as a cheap imitation of no value. Boy, have you been swindled!!!"

As you might guess, this book caused an immediate uproar among the pot folk (or *vase specialists*), who promptly went to counterattack everything he had to say. In the end, of course, the pot people came out on top in the scholarly world, and collectors refused to stop collecting since they could see for themselves that many of the pots were true artistic masterpieces.

The second study is an article by David Gill and Christopher Chippendale: *Material and Intellectual Consequences of Esteem for Cycladic Figures,* AJA 97/3 (1993), pp. 602–673 (see also, http://www.mcdonald.cam.ac.uk/projects/chip/chip213.htm). This is another beautifully written and very convincing essay, which basically claims that the vast majority of Cycladic marble figurines in museums and private collections all over the world are all modern fakes because virtually none of them have any provenance! Not only that, they go to great lengths to 'prove' that the figurines are not art, in part by suggesting that the people who made them were merely simply farmers who had no concept of true art (as if they had whittled them for the kids whilst sitting on the back porch). This, of course, is an attack on those scholars who studied Cycladic figures and assigned them to varying 'schools' or, even, to specific 'masters' or 'hands', thus, in G & C's opinion, making the objects more attractive for collectors. They also rail against the way the figures are displayed and viewed. Modern viewers have always been impressed by the smooth lines and sheer whiteness of the figures (they especially influenced famous modern artists like Brancussi and Picasso), thus making them seem contemporary in spirit, but G & C tell us that we shouldn't look at them this way since they were originally garishly painted. In addition, we often display them incorrectly since the large tall figures that look so ethereal, even Christ-like, when mounted vertically, really were meant to be lying down. Thus, modern appreciation for these figures is based on false premises because we are not looking at them the way they were meant to be looked at when they were made (of course, if they're all fake, G & C's efforts to convince us that we're viewing them incorrectly seem to be misplaced). Sad to say for G & C, the wide world of museums, scholars, collectors and art dealers have resolutely refused to be convinced by their brilliantly written dissertation—Greek archaeologists surely don't believe them since they haven't tried to prevent the Greek

government from going to court in attempts, sometimes successful, at confiscating Cycladic material appearing in major auctions (somewhat astoundingly, especially if all this stuff is 'fake', the catalogue of the greatest collection of unprovenanced and illegally excavated Cycladic material in the world, that of the superb Goulandris Museum in Athens, was written by none other than that self-appointed scourge of collectors, Lord Colin Renfrew himself! If this isn't world-class hypocrisy, what is?).

These two extraordinary works were part of a trend that attacked collecting and the trade in antiquities by shrilly objecting that modern people were appreciating ancient objects for the wrong reasons, were placing outrageously high monetary values on them, were viewing them in ways they weren't originally meant to be viewed, and were displaying them out of their original contexts or far from where they were originally made. This last point was particularly bizarre since it meant that in their view the only way anyone can truly understand any art is to see it where it was made and under the conditions that obtained at the time it was created. Using this logic Cycladic art can only be understood if it is seen on Naxos, perhaps while drinking an ouzaki and munching on a piece of grilled octopus, rather than in Athens or Boston or London; and Andy Warhol's works can only be fully appreciated in New York City, and only by multi-sexual users of recreational drugs, rather than in museums and private homes all over the world. It also had the curious result that the old rallying cry of the radical archaeologists, that antiquities were the "common heritage of all mankind", had to be dropped. After all, if Cycladic figures were the common heritage of all humankind, it would make sense for them to be in museums, and even private collections, all over the world, rather than only being the property of the source country where they were found as the radicals wished.

Well, as we know, all these arguments have not been very successful, simply because their logic was absurd to begin with, and people weren't impressed by them. So what did our radicals do? They made a 180° turn and now claim that *all ancient objects are inestimable, priceless treasures, of supreme value for the cultural heritage of the country in which they are found.* That's right, everything is priceless: from Palaeolithic stone tools, ordinary Neolithic through the Byzantine household pottery, common cylinder seals and Roman bronze fibulae, to worn small AE folles of the House of Constantine! And since nowadays people all over the world are particularly impressed by monetary value ("*priceless*!", "*treasure*!"), the radical archaeologists have finally hit on a way to impress the media and politicians into believing that a virtual shut down of the world's art trade, and the demonization, if not criminalization, of collectors is the only way to stop the looting of archaeological sites.

Unfortunately, this strategy seems to be working. In the press, on television, and in books like RA's, the antiquities trade, and by extension the trade in ancient coins, is under attack as never before; with collectors being reviled as the major cause of looting. This is being done by highly articulate people who can be quite sincere, but whose unquestioning acceptance of the radical archaeologists' programs produce biased, one-sided and politically correct reporting.

How can we fight back? Collectors have to start writing protest letters to their political representatives to make their opinions heard. We also have to make sure the right questions are asked and investigated. Like,

Why is it that in England, where laws are fair, such a huge amount of archaeological finds are reported by the public, often in such timely fashion that they can be excavated professionally? Is the fact that finders receive prompt and fair rewards for anything wanted by the state, while those items not wanted are returned to the finder, a major factor behind the widespread acceptance of English heritage laws?

Why do large numbers of people in the source countries not obey their countries' antiquity laws? Is the state's declaration of ownership of everything found under the ground, on public or private land, one of the direct causes of the black market because rewards for compliance are too low to be attractive? Is another cause the fact that rewards are less than the amount that local dealers are willing to pay?

When someone speaks about how important an ancient object is for cultural history, or what a 'priceless treasure' it is, ask him or her why. Why is an ancient pot/bronze figurine/marble sculpture/coin, similar or even the same as many others previously known vital for a country's heritage?

The United States is a country built by immigrants, unlike the more homogenous states of Europe. At one point Chicago is said to have been the second-largest Greek city in the world after Athens, and it is well known that millions and millions of Americans have some Italian ancestry. Do these people have no right to objects pertaining to their heritage? There are surely Greek-Americans and Italian-Americans living in the U.S. today whose distant ancestors actually made some of the pots, or used some of the coins, found in Greece or Italy today—why should these people be excluded from owning such items? If an American wants to move to Italy and bring

his entire collection with him, he is free to do so, but if an Italian wants to move to the USA with his paintings, coins and vases, many of his possessions will not be allowed out—is this right?

The radical archaeologists have managed to claim the moral high ground in the debate over the trade in coins and antiquities. It is about time we push them off it.

Archaeological Institute of America
Boston, MA 02215
August 24, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Chairman Shaw:

As President of the Archaeological Institute of America (AIA), I am writing to express my strong support and the support of the AIA for the inclusion of H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from the cultural institutions and archaeological sites of Afghanistan.

This bill is particularly important since Afghanistan has not yet ratified the 1970 UNESCO Convention and cannot ask for U.S. Protection in the normal way under the current Cultural Property Implementation Act of 1983. The more than 30 years of chaos in Afghanistan since their revolution in 1974, shortly after the UNESCO Convention was written, and lack of effective central authority in the country have prevented Afghanistan from taking the important step of ratification. In the last two decades looting in Afghanistan has been devastating to that country's cultural heritage, and since the destruction of the Bamiyan Buddhas by the Taliban in 2001 and the current war there the situation has become even worse, rivaling, and if anything, exceeding the more familiar situation in Iraq. As partial documentation of this devastation, the AIA's website contains a description of the looting of some major Afghan archaeological sites (www.archaeological.org, see under "Archaeology Watch, Afghanistan's Cultural Heritage"). Among other postings may be found the text of an address "The Impact of War upon Afghanistan's Cultural Heritage" by Mr. Abdul Wasey Feroozi, Director General of the National Institute of Archaeology in Kabul. Mr. Feroozi's text is supplemented by photographic documentation with captions by Dr. Zemaryalai Tarzi, Director for the French Survey and Excavation Archaeological Mission and former Director of Archaeology and Conservation of Historical Monuments in Afghanistan. An article on Dr.Tarzi's current excavations at Bamiyan was published in the January/February issue of AIA's popular publication, *Archaeology* Magazine (abstract at www.archaeology.org/0501/abstracts/afghan.html), and since 1998 there have been several other articles on the cultural heritage problems in Afghanistan in the magazine. As with Iraq, the United States has undertaken a special relationship with Afghanistan and it is very important that concern for preservation of the cultural heritage of Afghanistan be given equal consideration.

Antiquities are looted from sites so that they can be sold at high prices to markets in Western Europe and the United States. The looting of sites often causes irreversible damage to the sites, destroying contextual relationships among artifacts and the contexts in which they were used or buried in the past such as architecture, tombs, hearths, kitchens, temples. Once those relationships are destroyed it becomes impossible to reconstruct the full meaning of such artifacts—how they were used and valued in the past and who used them. This information is crucial to the full understanding and appreciation of the remains of any ancient culture. It is critically important that the President be given the authority to prevent the import into the United States of looted cultural materials from Afghanistan and thereby reduce the incentive fortheft and destruction of archaeological sites in that country. Enactment of this legislation will help the United States to fulfill its obligations to the Afghan people and help to enrich our understanding of the world's and our own cultural heritage.

The AIA was founded in 1879 and chartered by an Act of Congress in 1906 and is now the oldest and largest non-profit organization in the U.S. devoted to archaeology. Our over 8,000 members include not only professional archaeologists but also students and members of the general public. This latter category makes up a large majority of our membership and many of our programs and publications are devoted to educating the public about archaeology and cultural heritage and fostering an appreciation for the role of archaeology in understanding the human past. On behalf of all of our membership I urge you and the members of your committee to approve the inclusion of HR 915 in the Miscellaneous Tariffs bill and help the Afghan people to protect their cultural heritage for themselves and for all of us.

Jane C. Waldbaum
President, Archaeological Institute of America

Bryn Mawr College
Bryn Mawr, PA 19010–2899
August 24, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan.

This legislation is necessary because archaeological sites are now being looted on a large scale in Afghanistan and, according to recent news reports, *terrorist groups are selling these illegal antiquities to support their terrorist attacks* (see attached article from the German news magazine *Der Spiegel*). So aside from protecting the cultural heritage of Afghanistan, there is good reason for the United States to enact such legislation on the grounds of national and international security. The looting of sites and theft from museums in Afghanistan have been significant problems for many years. As with Iraq, the United States has undertaken a special relationship with Afghanistan. Concern for preservation of the cultural heritage of Afghanistan must be given equal consideration.

Sites are looted of antiquities so that they can be sold ultimately to markets in Western Europe and the United States. As the attached article states, Mohammed Atta was attempting to sell in either 2000 or 2001 antiquities from Afghanistan, presumably, according to German authorities, for the purpose of financing the purchase of an airplane. He was referred to Sotheby's auction house. U.S. legislators ought to want to act very decisively on legislation that will impose penalties for anyone engaging in or abetting the sale of illegal antiquities. Therefore, as a first step, it is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials and thereby reduce the incentive for theft and destruction of archaeological sites. Enactment of this legislation will help the United States to fulfill its obligations to the Afghan people and help to enrich our understanding of the world's and our own cultural heritage.

James C. Wright
Professor and Chairman,
Member of the Professional Responsibilities Committee
Archaeological Institute of America

Der Spiegel 29/2005, p. 20

"ART FOR FINANCING TERRORISM? According to new information from the Federal Crime Office (BKA) the pilot-terrorists from Hamburg possibly attempted to finance the 9/11 attack through the sale of illegal art. The head of the group, the Egyptian Mohammed Atta, spoke in 2000 or 2001 to Prof. Brigitte G. of the University of Goettingen and offered "Afghan art with the intention of arranging its ex-

change." "He wanted to know, where antiquities could be marketed," the scholar remembered. Thereby according to the BKA, Atta had as a possible reason also stated that he needed the money in order to finance the purchase of an airplane. The contact with Goettingen was provided by the Technical University of Hamburg, where he was then studying. Although the professor referred him to Sotheby's auction house, no sale occurred. At the beginning of 2000 Atta returned to Germany from an Al-Qaida training camp in Afghanistan in order to prepare for the attack against the USA."

Here is the original German version:

"KUNST ALS TERRORFINANZIERUNG?

Die Hamburger Todespiloten haben nach neuen Erkenntnissen des Bundeskriminalamts (BKA) möglicherweise versucht, die Anschläge vom 11. September 2001 durch illegalen Kunsthandel zu finanzieren. Der Kopf der Gruppe, der Ägypter Mohammed Atta, sprach 2000 oder 2001 die Göttinger Professorin Brigitte G. an und offerierte "afghanische Kunst mit dem Ziel der Weitervermittlung". "Er wollte wissen, wo man Antiquitaeten vermarkten kann", erinnert sich die Wissenschaftlerin. Dabei habe Atta, so das BKA, am Rande als Begründung möglicherweise auch geäussert, er brauche das Geld, um den Ankauf eines Flugzeugs zu finanzieren. Der Kontakt nach Göttingen war über die Technische Universität Harburg [sic] vermittelt wordern, an der Atta damals studierte. Weil die Professorin ihn auf das Auktionshaus Sotheby's verwies, kam kein Geschft zustande. Atta war Anfang 2000 aus den Qaida-Ausbildungslagern in Afghanistan zurück nach Deutschland gekommen, um die Anschläge auf die USA vorzubereiten."

Archaeological Institute of America
Long Island Society
Melville, NY 11747
August 29, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw:

I am writing to ask you to strongly support the HR915 Cultural Conservation of the Crossroads of Civilization Act. This act will give the President the authority to help stem the tide of illegal antiquities that are being drained from Afghanistan.

Afghanistan has many archaeological sites that were once thriving cities on the great Silk Road that linked China and India to the western world. These sites and the artifacts found in them constitute an important part of our world heritage. As tourists, we have personally traveled portions of the Silk Road and would be appalled if any of this heritage is lost. As members of the Archaeological Institute of America, we are particularly aware of and sensitive to this issue. We know your support will help advance our understanding of world civilization.

Naomi Taub
Education Chairperson

Jesse Taub,
Member

Archaeological Institute of America
Milwaukee Society
Milwaukee, WI 53202
August 25, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in

the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan.

This legislation is necessary because archaeological sites are now being looted on a large scale in Afghanistan. The heritage of Afghanistan has played an important role in the world's historical and cultural development. The looting of sites destroys the historical, cultural, religious and scientific information that is derived through the careful, systematic excavation of sites. When this record is destroyed we are all the poorer for it.

The looting of sites and theft from museums in Afghanistan have been significant problems for many years. As with Iraq, the United States has undertaken a special relationship with Afghanistan. Concern for preservation of the cultural heritage of Afghanistan must be given equal consideration.

Sites are looted of antiquities so that they can be sold ultimately to markets in Western Europe and the United States. It is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials and thereby reduce the incentive for theft and destruction of archaeological sites. Enactment of this legislation will help the United States to fulfill its obligations to the Afghan people and help to enrich our understanding of the world's and our own cultural heritage.

Katherine Murrell
Public Relations/Outreach Coordinator

Archaeological Legacy Institute
Eugene, Oregon 97405
August 22, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I am the Executive Director of a 501(c)(3) nonprofit dedicated to the sharing of information and perspectives relating to the human cultural heritage worldwide. But before we can share this heritage, we must first protect it.

I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan. This legislation is necessary because archaeological sites are now being looted on a large scale in Afghanistan. The heritage of Afghanistan has played an important role in the world's historical and cultural development. The looting of sites destroys the historical, cultural, religious and scientific information that is derived through the careful, systematic excavation of sites. When this record is destroyed we are all the poorer for it.

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Sincerely yours,

Richard M. Pettigrew, Ph.D., RPA
Executive Director

Association of Dedicated Byzantine Collectors
Framingham, Massachusetts 017042
September 2005

Dear Sirs:

I am writing to oppose efforts to restrict the importation of coins from Afghanistan. Coins from this area are numerous and there is abundance for local and international research. Restricting their importation would result in large quantities of coins that would become unavailable for collectors and dealers from all over the world. This category of researcher adds significantly to the knowledge of the countries they study and we all profit from this added information.

Please ensure that American numismatists will be able to collect and study coins from Afghanistan. Coins are a valuable addition to the study of history and no country exists in a vacuum. We learn economics, politics, gender issues as well as the straight history. This information enriches us all, and gives us an understanding of each other and each other's cultures. In a time when we are all struggling to find "place" in the world, this is particularly important.

Sincerely,

Prudence Morgan Fitts
President

Bard Graduate Center for Studies in the Decorative Arts
New York, New York 10024
August 17, 2005

Congressman E. Clay Shaw, Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I am an archaeologist and professor of ancient art at the Bard Graduate Center in New York City. I have worked for more than 25 years restoring the ancient wooden furniture excavated at the site of Gordion in Turkey, which belonged to the famous Phrygian King Midas and his family. I have twice received grants from the National Endowment for the Humanities for this project, which has involved an international team of archaeologists and conservators. Support for this important work by NEH and the United States government clearly indicates to me that our elected officials have a serious and continuing interest in the cultural heritage of the Middle East.

In this regard, I am writing to you to urge your support for including H.R. 915, Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan"), in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan.

Immediate enactment of this legislation is *extremely important,* since the plundering of Afghan archaeological sites is taking place on a large scale right now. Afghanistan has played a crucial role in the world's historical and cultural development, and the looting of Afghan sites is seriously compromising the country's cultural heritage. When the archaeological record is destroyed, *all the world's people loose an important part of their collective cultural heritage.* This was demonstrated by the widespread outrage that resulted from the recent destruction of the Buddha statues at Bamiyan.

Archaeological sites are plundered for antiquities that are traded largely through markets in Western Europe, many ultimately finding their way to the United States. We must therefore take responsibility for the problem and do what we can to stop it. It is crucial that the President be given the authority to prevent the import into the United States of looted cultural materials from Afghanistan. This will reduce the incentive for the looting and destruction of archaeological sites and help us to fulfill our obligations to the Afghan people to protect the precious remains of their ancient culture.

Sincerely,

Elizabeth Simpson
Professor

University of Tennessee
Frank H. McClung Museum
Knoxville, Tennessee 27917
August 18, 2005

Congressman E. Clay Shaw
Chairman Subcommittee on Trade of the Committee on Ways and Means U.S. House of Representatives

Dear Congressman Shaw,

My name is Bobby R. Braly and I am a doctoral student at the University of Tennessee in the department of Anthropology. With the current conditions overseas, I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan. This legislation is necessary because archaeological sites are now being looted on a large scale in Afghanistan. The heritage of Afghanistan has played an important role in the world's historical and cultural development. The looting of sites destroys the historical, cultural, religious and scientific information that is derived through the careful, systematic excavation of sites. When this record is destroyed we are all the poorer forint. Mr. Congressman I spent three months last summer excavating in Jordan and would like to further emphasize the importance of antiquities from this region. Although now an economically deprived area, the Middle East was once home to some of the greatest civilizations of early history. The corresponding artifacts are inherently important and must be preserved. You are certainly aware that cultural resources are non-renewable resources as that is why this letter has been sent with great fear for loss and/or destruction to archaeological or ethnological materials of Afghanistan

The looting of sites and theft from museums in Afghanistan have been significant problems for many years. As with Iraq, the United States has undertaken a special relationship with Afghanistan. Concern for preservation of the cultural heritage of Afghanistan must be given equal consideration. Sites are looted of antiquities so that they can be sold ultimately to markets in Western Europe and the United States. It is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials and thereby reduce the incentive for theft and destruction of archaeological sites. Enactment of this legislation will help the United States to fulfill its obligations to the Afghan people and help to enrich our understanding of the world's and our own cultural heritage

Thank you,

Bobby R. Braly M.A., R.P.A.

Lancaster, Pennsylvania 17603
August 18, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghani-

stan. This legislation is necessary because archaeological sites are now being looted on a large scale in Afghanistan.

The heritage of Afghanistan has played an important role in the world's historical and cultural development. The looting of sites destroys the historical, cultural, religious and scientific information that is derived through the careful, systematic excavation of sites. When this record is destroyed we are all the poorer for it. The looting of sites and theft from museums in Afghanistan have been significant problems for many years. As with Iraq, the United States has undertaken a special relationship with Afghanistan. Concern for preservation of the cultural heritage of Afghanistan must be given equal consideration.

Sites are looted of antiquities so that they can be sold ultimately to markets in Western Europe and the United States. It is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials and thereby reduce the incentive for theft and destruction of archaeological sites. Enactment of this legislation will help the United States to fulfill its obligations to the Afghan people and help to enrich our understanding of the world's and our own cultural heritage.

Kelly M. Britt
Columbia University

Statement of Eric J. McFadden, Classical Numismatic Group, Inc., Lancaster, Pennsylvania

Our firm, Classical Numismatic Group, Inc., is one of hundreds of small firms that deal in ancient coins. As members of the trade in cultural property, we take seriously our obligation to preserve and protect the objects in which we deal, and we deplore the destruction or theft of all objects of archaeological interest and the disruption of archaeological sites. We also oppose any import restriction which would apply to coins, for the reasons which follow, and we urge either that H.R. 915 be defeated or that it be amended to provide a specific exemption for coins.

Introduction

Ancient coins of the sort struck within the confines of present day Afghanistan are extremely common, with millions of examples extant. They have been avidly collected for hundreds of years and today are dispersed among collections throughout the world. There is normally no way to distinguish coins which have long resided in collections from coins which have been recently excavated, and so a restriction on all these coins would inevitably be an unreasonable restriction on vast numbers of coins which have been in collections for decades or centuries. American museums, dealers, and private collectors have all played a major role in preserving and studying ancient coins, and without their continuing efforts research and preservation of these small tokens from the past would suffer greatly.

Furthermore, restrictions on the importation of ancient coins would not provide any significant protection to archaeological sites because few ancient coins are actually found in archaeological strata. The coins in exceptional condition which are valued by collectors are almost always found in savings or emergency hoards deposited outside any archaeological stratum. As a result, these "hoard coins" are not of use for dating any related archaeological context.

Among the many arguments why it is fair and reasonable to permit Americans to import, collect, and study ancient coins, we would like to focus here—from our perspective as a dealer in ancient coins—on why any restriction would be unworkable from a practical standpoint.

1. Ancient Coins Exist in Enormous Quantities

Coins are perhaps the commonest relics of antiquity. Millions and millions of ancient coins have been found. One can understand the desire of a country to prevent the loss of unique items of cultural significance, but coins do not fall into this category. The vast majority of coins are common items, existing in a great many similar or nearly identical examples. Due to the numbers involved, if coins were brought into any regime of import restriction, the potential burdens would be enormous, for collectors, dealers and U.S. Customs. Our company alone imports well over 10,000 ancient coins per year into the U.S., and we are only one of more than 100 dealers who import ancient coins. How would we manage to produce documentation to comply with import restrictions, and how would U.S. Customs manage to analyze and process such documentation?

2. The Place of Manufacture of an Ancient Coin May Be Unknown

Not only is the number of coins enormous, but the difficulty of identifying the origin of each piece may be likewise great. In dealing with a restriction on items of Afghani "origin", it may be impossible to determine even whether a particular coin was made in Afghanistan. For much of recorded history, part or all of Afghanistan has been within the boundaries of various great imperial powers: the Persians, Alexander the Great and his successors, the Parthians, the Sasanians, the Kushans, the Scythians, the Mongols, the Mughals, and others. These empires typically controlled large areas unrelated to modern borders and issued coins at numerous mints, the precise location of which may not be known. Hence it may simply be impossible to say whether a particular coin was made within the borders of modern day Afghanistan or elsewhere.

3. Even if the Place of Minting is Known, This Has Little Bearing on Determining a Find Spot

In the ancient world, coins often circulated far from their point of origin. Coins issued in one part of a great empire, for example, regularly circulated in other parts. Accordingly, even if one does know where a coin was minted, this is no guide as to where it may have ultimately come to rest. Indeed, coins were items of trade, valued for their metal content, and are found far outside the borders of whatever authority issued them. To scrutinize every coin that may possibly have been minted in Afghanistan, in order to determine whether it may also have been found in Afghanistan, would place an enormous burden on dealers, collectors, and customs agents. Moreover, in almost every case, even with the best intentions and most diligent effort, a find site would simply be impossible to determine.

4. Actual Provenance of Ancient Coins Is Amost Always Unavailable

Modern collecting of ancient coins began in the Renaissance. Initially the province of royalty and aristocracy, collecting spread to the educated elite and then to the middle classes. Ancient coins have long been collected by Americans as tangible links to our cultural origins, and prominent American collectors have included John Quincy Adams, Cornelius Vanderbilt and J.P. Morgan. During the intervening several hundred years since the Renaissance, coins have been collected, have traded hands, and have moved across borders largely unhindered. Only occasionally has the actual find spot of a coin been recorded and retained with the coin to the present time. Coins are by their nature portable items, and it is not unusual today for a coin to change hands several times during a week or even a day at one of the international coin conventions. The field is highly international, in that dealers and collectors routinely travel to buy coins. Major international conventions are held every year in New York, Chicago, London, Paris, Zurich, Munich, Berlin, Verona, and many other cities. Dealers and collectors visit these conventions to buy and sell. A dealer from Norway may bring a coin to a convention in New York, sell it to a dealer from Spain, who then sells it to another dealer, and so on. Any history that may have been attached to a coin can vanish quickly. Even a coin that has graced important collections over the past century or longer may appear on the market without any record of its modern history. Accordingly, the provenance of a coin is normally unknown. To require an importer to produce such a provenance would be to require the impossible.

5. Import Restrictions Would Be an Unfair Hindrance to Collecting

As suggested above, it is extremely difficult to identify coins which may have been exported from Afghanistan. First, one may not even know where a coin was originally minted. Second, even if one knows the mint, this is no indication of where the coin was found. Third, regardless of where a coin may have been found, it may have a long, legitimate, and indeed distinguished—but unknown—modern history.

Any import restrictions on coins would create a considerable and unfair burden for U.S. collectors and dealers, as well as U.S. Customs. Moreover, the difficulty of determining the modern provenance of ancient coins would render such restrictions ineffective in actually identifying items to be excluded. The result, therefore, would be the creation of a costly and burdensome customs regime which would unfairly disadvantage American museums, collectors, and dealers.

Wheaton, IL 60187
August 18, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means U.S. House of Representatives

Dear Congressman Shaw,

I am an archaeologist and have a general interest in preservation of Archaeological sites. I work in Peru, where the pace of destruction of sites is so rapid that my small excavations, often only a single test pit 3 x 6 ft in size, are likely to be the only work ever carried out before these ancient places are destroyed. I know that all sites cannot be preserved, but I believe it is important to try and same some of them.

For this reason, I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan. This legislation is necessary because archaeological sites are now being looted on a large scale in Afghanistan. The heritage of Afghanistan has played an important role in the world's historical and cultural development. The looting of sites destroys the historical, cultural, religious and scientific information that is derived through the careful, systematic excavation of sites. When this record is destroyed we are all the poorer for it.

The looting of sites and theft from museums in Afghanistan have been significant problems for many years. As with Iraq, the United States has undertaken a special relationship with Afghanistan. Concern for preservation of the cultural heritage of Afghanistan must be given equal consideration.

Sites are looted of antiquities so that they can be sold ultimately to markets in Western Europe and the United States. It is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials and thereby reduce the incentive for theft and destruction of archaeological sites. Enactment of this legislation will help the United States to fulfill its obligations to the Afghan people and help to enrich our understanding of the world's and our own cultural heritage.

I hope my children will one day be able to visit Afghanistan and see its ancient treasures in the places where they were first created. You can help realize this dream by protecting Afghan national treasures.

Best wishes,

Winifred Creamer
(Professor of Anthropology,
Northern Illinois University,
Dekalb, IL 60115)

Pasadena, California 91105
September 2, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I am an Afghan-American woman living in the U.S. and I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan.

This legislation is necessary because archaeological sites are now being looted on a large scale in Afghanistan. The heritage of Afghanistan has played an important

role in the world's historical and cultural development. The looting of sites destroys the historical, cultural, religious and scientific information that is derived through the careful, systematic excavation of sites. When this record is destroyed we are all the poorer for it.

The looting of sites and theft from museums in Afghanistan have been significant problems for many years. As with Iraq, the United States has undertaken a special relationship with Afghanistan. Concern for preservation of the cultural heritage of Afghanistan must be given equal consideration. Sites are looted of antiquities so that they can be sold ultimately to markets in Western Europe and the United States. It is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials and thereby reduce the incentive for theft and destruction of archaeological sites. Enactment of this legislation will help the United States to fulfill its obligations to the Afghan people and help to enrich our understanding of the world's and our own cultural heritage.

Sincerely,

Soraya Delawari Dancsecs

Mark Stephen Dancsecs

San Diego, California 92127
September 1, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan. This legislation is necessary because archaeological sites are now being looted on a large scale in Afghanistan. The heritage of Afghanistan has played an important role in the world's historical and cultural development. The looting of sites destroys the historical, cultural, religious and scientific information that is derived through the careful, systematic excavation of sites. When this record is destroyed we are all the poorer for it.

The looting of sites and theft from museums in Afghanistan have been significant problems for many years. As with Iraq, the United States has undertaken a special relationship with Afghanistan. Concern for preservation of the cultural heritage of Afghanistan must be given equal consideration.

Sites are looted of antiquities so that they can be sold ultimately to markets in Western Europe and the United States. It is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials and thereby reduce the incentive fort heft and destruction of archaeological sites. Enactment of this legislation will help the United States to fulfill its obligations to the Afghan people and help to enrich our understanding of the world's and our own cultural heritage.

Sincerely,

Qudrat Delawari

Yasmine Delawari

Bethel, CT 06801
August 29, 2005

This letter is in regard to H.R. 915, a bill currently under consideration in the Trade Subcommittee of the House Ways and Means Committee.

This bill, although laudable in its stated purpose of preserving the cultural heritage of Afghanistan, creates more problems than it solves. Most significantly, it turns law abiding American citizens into the victims of the failed enforcement of laws in other countries. Some of the most notable faults of this bill are:

1. It is excessive in scope and proposes to restrict importation into the United States of even minor, insignificant objects, like coins, simply because they are old.
2. The justifications presented in this bill are grossly inaccurate. Claims of 100% looting of the Kabul Museum have been proven unfounded by a special report of the National Geographic Society which shows that the museum's greatest treasures were always secure in storage and purposely not revealed by international archaeologists. Nevertheless, the inflammatory and false claims of loss continue to be presented as justification for passage of H.R. 915.
3. U.S. Import restrictions on antiquities, especially on coins, would do nothing to diminish site looting in Afghanistan and would have an extremely detrimental effect on the private scholarship and cultural interaction that these coins have fostered for several centuries.

If import restrictions are deemed essential, please at least exempt coins and other minor objects from the list of considered objects. Coins, by their very nature as tokens of commerce, were struck in the millions and purposely intended to circulate as widely as possible. They are not cultural property or national treasures but belong to anyone, anywhere, who has obtained them through fair and legal exchange.

I ask you not to support this bill.

Paul DiMarzio

Oxford, Ohio 45056
September 1, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan. This legislation is necessary because archaeological sites are now being looted on a large scale in Afghanistan. The heritage of Afghanistan has played an important role in the world's historical and cultural development. The looting of sites destroys the historical, cultural, religious and scientific information that is derived through the careful, systematic excavation of sites. When this record is destroyed we are all the poorer for it. As a student of the classics at Miami University, I have an immense appreciation and support the building and maintaining Afghanistan's cultural heritage.

The looting of sites and theft from museums in Afghanistan have been significant problems for many years. As with Iraq, the UnitedStates has undertaken a special relationship with Afghanistan. Concern for preservation of the cultural heritage of Afghanistan must be given equal consideration.Sites are looted of antiquities so that they can be sold ultimately to markets in Western Europe and the United States. It is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials and thereby reduce the incentive for theft and destruction of archaeological sites. Enactment of this legislation will help the United States to fulfill its obligations to the Afghan people and help to enrich our understanding of the world's and our own cultural heritage.

Tara Eagle

Texas A&M University

College Station, TX 77843

August 19, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives

Dear Congressman,

I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan. This legislation is necessary because archaeological sites are now being looted on a large scale in Afghanistan. The heritage of Afghanistan has played an important role in the world's historical and cultural development. The looting of sites destroys the historical, cultural, religious and scientific information that is derived through the careful, systematic excavation of sites. When this record is destroyed we are all the poorer for it.

The looting of sites and theft from museums in Afghanistan have been significant problems for many years. As with Iraq, the United States has undertaken a special relationship with Afghanistan. Concern for preservation of the cultural heritage of Afghanistan must be given equal consideration. Sites are looted of antiquities so that they can be sold ultimately to markets in Western Europe and the United States. It is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials and thereby reduce the incentive for theft and destruction of archaeological sites. Enactment of this legislation will help the United States to fulfill its obligations to the Afghan people and help to enrich our understanding of the world's and our own cultural heritage.

Sincerely,

Dr. Suzanne L. Eckert
Department of Anthropology

Engineering and Science Students for the Reconstruction of Afghanistan (ESSRA)
Fremont, CA 33273
September 1, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan.

This legislation is necessary because archaeological sites are now being looted on a large scale in Afghanistan. The heritage of Afghanistan has played an important role in the world's historical and cultural development. The looting of sites destroys the historical, cultural, religious and scientific information that is derived through the careful, systematic excavation of sites. When this record is destroyed we are all the poorer for it.

The looting of sites and theft from museums in Afghanistan have been significant problems for many years. As with Iraq, the United States has undertaken a special relationship with Afghanistan. Concern for preservation of the cultural heritage of Afghanistan must be given equal consideration.

Sites are looted of antiquities so that they can be sold ultimately to markets in Western Europe and the United States. It is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials and thereby reduce the incentive for theft and destruction of archaeological sites. Enactment of this legislation will help the United States to fulfill its obligations to the Afghan people and help to enrich our understanding of the world's and our own cultural heritage.

Masood Sattari
Executive Director

[By permission of the Chairman:]

European Association of Archaeologists, University of Exeter
Exeter, United Kingdom
September 2, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw

I write to you as President of the European Association of Archaeologists, an organisation representing more than 1000 professional archaeologists from all countries of Europe and several outside it, especially the United States. My Board has been alarmed to hear of the illegal excavation and export of antiquities from Afghanistan, and their subsequent appearance on the market in the U.S. and elsewhere, including western Europe.

I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan.

Looting of archaeological sites and museums, and despoliation of other monuments is a problem world-wide, but this is especially so in countries that are facing problems of law and order, as is the case in Afghanistan and Iraq. Afghanistan has a rich heritage of sites and monuments, which the illegal removal of antiquities and art objects destroys. Objects removed from their context may be valuable on the market as art items but are useless in terms of scientific understanding. Short-term financial gain for a few destroys long-term knowledge for everyone else.

The looting of sites and museums occurs so that objects can be sold on to markets in countries where rich art collectors live, principally western Europe and the United States. Poor people in the affected areas understandably seek immediate financial reward from objects they can easily recover from the ground. The only effective way to prevent such looting is to remove the market for such objects. It is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials and thereby reduce the incentive for theft and destruction of archaeological sites. Enactment of this legislation will help the United States to fulfill its obligations to the Afghan people and help to enrich our understanding of the world's cultural heritage.

Professor Anthony Harding
President

Wabash College
Louisville, KY 40205
August 29, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I taught at Wabash College in Indiana for forty years and, during that time, I was involved in Greece with several archaeological excavations. I care deeply for artifacts and feel that they should stay in their country of origin. The United States should do everything in its power to stop illicit trade in looted antiquities.

I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan.

This legislation is necessary because archaeological sites are now being looted on a large scale in Afghanistan. The heritage of Afghanistan has played an important role in the world's historical and cultural development. The looting of sites destroys the historical, cultural, religious and scientific information that is derived through the careful, systematic excavation of sites. When this record is destroyed we are all the poorer for it.

The looting of sites and theft from museums in Afghanistan have been significant problems for many years. As with Iraq, the United States has undertaken a special relationship with Afghanistan. Concern for preservation of the cultural heritage of Afghanistan must be given equal consideration.

Sites are looted of antiquities so that they can be sold ultimately to markets in Western Europe and the United States. It is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials and thereby reduce the incentive for theft and destruction of archaeological sites. Enactment of this legislation will help the United States to fulfill its obligations to the Afghan people and help to enrich our understanding of the world's and our own cultural heritage.

John E. Fischer
Professor of Classics, Emeritus

Waltham, MA 02451
August 29, 2005

Congressman E. Clay Shaw, Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman,

I am writing to urge that you do not support H.R. 915, a bill currently under consideration in the Trade Subcommittee of the House Ways and Means Committee. If import restrictions are deemed essential, please at least exempt coins and other minor objects from the list of considered objects.

As a private collector of ancient coins, I feel such import restrictions are unnecessary and undesirable for several reasons:

1) Ancient coins are not natural treasures. They were made for the sole intention of enabling commerce, and for that reason often circulated far beyond an individual nation's borders. As noted in the introductory text of H.R. 915, Afghanistan was the crossroads of many civilizations in ancient times. It has therefore thrived on the flow of coins in international trade.
2) Ancient coins are also typically not found associated with important archeological sites, having been lost by chance or buried in isolated context by their original owner's during times of crisis. Therefore ancient coins rarely have contextual archeological value as do other objects of cultural heritage, which I fully agree need to be preserved and protected.

3) The right to private ownership is one of the most important rights that we Americans enjoy. However, increasingly this right is coming under attack. Ancient coin collecting has been a popular pursuit for many centuries. The imposition of import restrictions could severely damage the hobby of numismatics and the many small businesses in the United States that are based upon it.
4) Import restrictions assume incorrectly that it is feasible for Customs agents to rely on generic lists to identify coins of Afghani origin that require documentation. This places an unreasonable burden on importers of coins, which typically lack a provenance as to where and when they were found.
5) Ancient coins were struck in the uncounted millions or even billions and circulated across the known world in antiquity, as well as in recent centuries as collectables. Documentation requirements would place a severe burden of proof on collectors and potentially cloud the title of millions of historical coins that already exist in collectors' hands in the United States. International commerce in coins would be inhibited due to the fear of unjustified seizure.

I strongly request your help so that collectors such as myself will continue to enjoy and learn from the hobby of collecting ancient coins. Please ensure that Congress takes action to see that the issues described above are dealt with before this legislation becomes law.

Dr. Kevin P. Foley

University of California
Santa Barbara, California 93106
August 23, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I am an archaeologist at the University of California Santa Barbara. I have been working in the realm of cultural heritage conservation in Mesoamerican and in the Maya area, and have a great concern for cultural resources around the world.

I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in theMiscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into theUnited States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan. While Afghanistan is not the only area I am concerned with it is yet another example of the need to protect cultural heritage in situ and is important an example of respect for the local value and irreparabilityof these antiquities.

This legislation is necessary because archaeological sites are now being looted on a large scale in Afghanistan. The heritage of Afghanistan has played an important role in the world's historical and cultural development. The looting of sites destroys the historical, cultural, religious and scientific information that is derived through the careful, systematic excavation of sites. When this record is destroyed we are all the poorer for it. Conservation of the cultural contexts are critical, removing items as art and displacing their context reduces value and importance to local inhabitants and scholars alike.

Looting world wide has taken on terrible proportions. Archaeological sites have fallen prey to western interests in art over the centuries.The looting of sites and theft from museums in Afghanistan have been significant problems for many years. As with Iraq, the United Stateshas undertaken a special relationship with Afghanistan. Concern for preservation of the cultural heritage of Afghanistan must be given equal consideration. We have recognized bilateral conventions following the UNESCO conventions on antiquities. This will reinforce these global positions. Afghanistan's own traditions are at risk and this should not be exacerbated. Sites are looted of antiquities so that they can be sold ultimately to markets in the developed world, particularly the United States. It is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials and thereby reduce the incentive for theft and destruction of archaeological sites. Enactment of this legislation will help the United States to fulfill its obligations to

the Afghan people and help to enrich our understanding of the world's and our own cultural heritage.

Dr. Anabel Ford

New York, New York 10025
August 17, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan.

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Sincerely,

Gregg Gardner

[By permission of the Chairman:]

German Archaeological Institute
Cairo, Egypt
August 25, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan.

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I am sending you this model letter to avoid any formal mistakes on my side. However, I would like to add that as a former associate professor of Egyptian Archaeology and History at the University of California, Los Angeles, and current associate director of the German Archaeological Institute Cairo, I am well aware of the serious damage to the world's cultural heritage caused by illicit activities on various levels in connection with the international antiquities trade and art market. We are facing the results of these illicit activities almost daily even in a country like Egypt where there is a well-organized and efficient national Antiquities Organization. The current situation in Afghanistan does not allow such a sufficient control of the numerous historical and archaeological sites in that country. Civilized nations like the United States of America with the highest possible moral and ethic standards are, in my opinion, not only supposed to support the preservation of any cultural heritage on this planet, they are oblidged to do so.

Dr. Daniel Polz
Associate Director

Castro Valley, California 94552
September 1, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan.

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the Afghan people and help to enrich our understanding of the world's and our own cultural heritage.

Sincerely,

Mostafa Ghous

HRA, Inc.
Conservation Archaeology
Henderson, Nevada 89014
August 17, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

My name is Suzanne Eskenazi, and I am an archaeologist working in Las Vegas, Nevada. Although most of my work takes place in southern Nevada and southwestern Utah, I have always been interested in archaeology around the world. The initial spark for my interest in archaeology occurred in high school, when I studied the "fertile crescent" and areas around Afghanistan. I was completely enchanted by the ancient civilizations that lived in that region. This is why I am contacting you. Recently, it has come to my attention that a bill (H.R. 915) is soon to be voted on that involves the antiquities of Afghanistan.

I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan. This legislation is necessary because archaeological sites are now being looted on a large scale in Afghanistan. The heritage of Afghanistan has played an important role in the world's historical and cultural development. The looting of sites destroys the historical, cultural, religious and scientific information that is derived through the careful, systematic excavation of sites. When this record is destroyed we are all the poorer for it.

The looting of sites and theft from museums in Afghanistan have been significant problems for many years. As with Iraq, the United States has undertaken a special relationship with Afghanistan. Concern for preservation of the cultural heritage of Afghanistan must be given equal consideration. Sites are looted of antiquities so that they can be sold ultimately to markets in Western Europe and the United States. It is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials and thereby reduce the incentive for theft and destruction of archaeological sites. Enactment of this legislation will help the United States to fulfill its obligations to the Afghan people and help to enrich our understanding of the world's and our own cultural heritage.

Please, help support the bill that will protect stolen artifacts from Afghanistan. Thank you.

Sincerely,

Suzanne B. Eskenazi, M.A., R.P.A.
Archaeologist

Industry Council for Tangible Assets
Severna Park, Maryland
August 10, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade
Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington DC 20515

Dear Mr. Chairman:

I am writing to express my concerns about a piece of legislation authorizing import restrictions relating to Afghan artifacts (H.R. 915) that appears to be ready to be folded into the Miscellaneous Trade Bill. ICTA is the national trade association for the rare coin/precious metals/currency industry.

Congress should exempt coins from any such restrictions. If that is not feasible, Congress should refer the matter to the U.S. Cultural Property Advisory Committee for consideration or, at the very least, severely limit Customs' authority to seize coins without conclusive proof that they were illegally removed from Afghan institutions or archaeological sites.

Import restrictions on coins are unnecessary because:

- Coins are not national treasures.
- Coins can only be found easily with metal detectors. Regulation of metal detectors is the most effective and fair way of dealing with looting of archaeological sites for tiny metal objects like coins.

On the other hand, imposition of import restrictions could severely damage the hobby of numismatics and with it the study and preservation of historical coins in the U.S.

- Import restrictions wrongly assume that Customs can reasonably rely on generic lists of coins that circulated in Afghanistan to trigger an importer's obligation to document country of origin. However, such an assumption places an impossible burden on importers of coins. Coins typically lack a "provenance." It is quite unusual to know where or when a specific coin may have been excavated.
- Historical coins were struck in the millions and circulated widely in antiquity as hard currency and in more recent times as collectibles. Placing the burden of proof on collectors to show "provenance" could "cloud the title" to hundreds of thousands, if not millions, of historical coins already in collections here and abroad. Such coins could not travel in international commerce without fear of unjustified detention and seizure.

Your assistance in ensuring that Congress take action to ensure that the problems described above are dealt with before this legislation becomes law will be greatly appreciated.

ICTA's members would appreciate hearing your position on this issue and would be pleased to provide any technical assistance you and the Committee might require to assist your deliberations.

Sincerely,

Eloise A. Ullman
Executive Director

Frankfort, Michigan
August 29, 2005

Dear Sirs:

Please do not support H.R. 915, a bill currently under consideration in the Trade Subcommittee of the House Ways and Means Committee.

Import restrictions on coins are unnecessary because. Coins are not national treasures. Coins were struck in the millions and circulated widely in antiquity as hard currency and in more recent times as collectables.

On the other hand, imposition of import restrictions could severely damage the hobby of numismatics, and with it the study and preservation of historical coins in the U.S.:

Import restrictions wrongly assume that Customs can reasonably rely on generic lists of coins that circulated in Afghanistan to trigger an importer's obligation to

document country of origin. However, many of the coin types that circulated in Afghanistan circulated throughout the ancient world. Furthermore, most ancient coins are discovered as individual surface finds and typically lack provenance. Allowing Customs to demand source documentation would place an impossible burden on importers of coins.

Placing the burden of proof on collectors to show provenance could cloud the title to millions of historical coins already in collections here and abroad. Such coins could not travel in international commerce without fear of unjustified detention and seizure.

Your assistance in ensuring that Congress takes action to ensure that the problems described above are dealt with before this legislation becomes law will be greatly appreciated.

Sincerely,

Kevin W. Ingleston

Statement of Peter K. Tompa, International Association of Professional Numismatists, Professional Numismatists Guild, and the Ancient Coin Collectors Guild*

The International Association of Professional Numismatists ("IAPN"), the Professional Numismatists Guild ("PNG")and the Ancient Coin Collectors Guild ("ACCG") respectfully submit this statement in support of common sense measures to protect Afghanistan's cultural heritage and against the anti-small business and anti-coin collector remedy of "emergency import restrictions" authorized under the Cultural Conservation of the Crossroads of Civilization Act. By their very nature, any import restrictions on coins will not just impact trade between the U.S. and Afghanistan. Rather, such restrictions could greatly hamper—and thus endanger—all legitimate trade in ancient and early modern historical coins that remotely "look" like they may have once circulated in Afghanistan. Given the huge potential for damage to the entire international numismatic community, any such decision to impose import restrictions pursuant to the Act on coins must not be made lightly.

Afghanistan has suffered greatly from tyranny and war, but has there really been a case made that "emergency import restrictions" on antiquities must be imposed, and if so, will any such prescription make the situation better or worse in Afghanistan, and at what cost to the small businesses, collectors and academics interested in coins that make up the American numismatic community?

There is a legitimate question why such legislation is really necessary. As IAPN and PNG have previously reported, one of the major predicates for the legislation—Finding 16 stating that 100% of the objects in the Afghan National Museum were "stolen" and vandalized—is simply untrue.[1] Moreover, it is unclear why Congress is yet again being drawn into the philosophical morass associated with the Cultural Property Debate[2] when Afghanistan itself is fully capable of taking the steps necessary to request imposition of import restrictions utilizing normal diplomatic channels.[3]

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[1] See Letter from Peter K. Tompa to The Hon. Phil English, dated March 9, 2005 (copied to the entire House Ways and Means Committee Membership) (noting that these reports were already being questioned before H.R. 915 was introduced). As set forth in detail in this and in the "ACCG, IAPN and PNG Statement of Facts and Arguments Regarding Afghanistan, Coins and H.R. 4641, appended to letter of Arthur L. Friedberg, President of IAPN, to Congressman Phil English, dated July 9, 2004, it is Afghan war lords—some of whom are evidently associated with the present Afghan Government—that were responsible for destroying the Afghan National Museum and allegedly selling off some as yet undetermined amount of its contents. Moreover, the same war lords (or tribal leaders) are said to largely control the trade in antiquities being excavated in the countryside.

[2] What largely was an academic debate over cultural property issues between academic archaeologists on one hand and high-end antiquities collectors and museum professionals on the other, has now spilled over into public policy, impacting a much larger group of Americans—like the estimated 50,000 Americans who collect ancient coins as well as the small businesses of the numismatic trade. In any event, largely influenced by similarly overblown reports of the looting of the Iraq National Museum, Congress passed legislation authorizing similar "emergency import restrictions" on Iraqi cultural goods last year.

[3] Afghanistan has had a functioning government for some years. That government could sign and ratify the UNESCO Treaty which would entitle it to make a request for import restrictions under the procedures contemplated in the Convention on Cultural Property Implementation Act, 19 U.S.C. §§ 2601–2613.

This bill also touches upon larger political issues, sending the "wrong message" to the people we need to really need to influence—the common citizens of Afghanistan (as opposed to sundry academic archaeologists and cultural property bureaucrats). In particular, the proposed legislation is "anti-democratic" at a time the United States is trying to foster democracy and freedom in countries like Afghanistan. Coin collectors and dealers support efforts narrowly tailored to protect archaeological sites and public and private collections in third countries. However, the assumption behind the present legislation is that the U.S. should encourage Afghanistan to establish the broadest possible controls on any item that it deems "old." Such a rule is wholly inappropriate for budding democracy and, indeed, harkens back to the dark days of Afghanistan's previous Communist and Taliban regimes.

In any event, Congress should not take the precipitous step of authorizing "emergency import restrictions"—particularly ones including coins—without granting the U.S. numismatic community a full opportunity to be heard at Congressional hearings or before the U.S. Cultural Property Advisory Committee ("CPAC"), the body normally charged with advising the President on such matters. In the absence of being provided such an opportunity, IAPN, PNG and ACCG respectfully request that the House Ways and Means Subcommittee on Trade consider the following facts and suggestions before incorporating the Cultural Conservation of the Crossroads of Civilization Act into the Miscellaneous Trade Bill.

A. Congress Should Be Supportive of Private Efforts to Preserve, Study and Display Ancient Coins—Collecting Fosters Appreciation of Afghan Culture and There Are Far Too Many Ancient Coins Extant to Be Sole Preserve of Sundry Archaeologists and Cultural Property Bureaucrats.

- ***Numismatists Care About Coins; Archaeologists Only Care About "Context."*** Numismatics, the study of coins, began in the Renaissance. Numismatics predates archaeology by several centuries. Unlike archaeologists, numismatists treat coins as far more than a means to the limited end of dating archaeological sites.[4] Instead, numismatists have interpreted coins as part of a larger political, military and economic context of the society which issued them. Indeed, much of what we know about the Greek kingdoms of ancient Afghanistan derives from the study of their coins. Moreover, unlike archaeologists, numismatists also have accepted the obligation to preserve, popularize and display their coins. The obsession of many archaeologists solely with the context in which an object is found has all too often meant that common artifacts like coins are either sacrificed in the process of dating archaeological stratum or left to deteriorate in poor storage conditions once they serve that limited purpose.[5] If anything, archaeologists are far more detrimental to coins than coin collectors are to preservation of the archaeological record.
- ***Ancient Coins as a Class are Extremely Common.*** Coins reached Afghanistan in the 5th C. BC when it was a province of the Achaemenid Empire of Iran. (Primary Source: J. Cribb, B. Cook and I. Carradice, The Coin Atlas 163–167 (MacDonald & Co. 1990)). Early issues of the Greek and Persian cities of the Eastern Mediterranean circulated based on their value as precious metal

[4] Archaeologists frequently see coins as little more than just one tool to date archaeological sites, and treat them accordingly. *See e.g.,* John Casey, Understanding Ancient Coins: An Introduction for Archaeologists and Historians 7 (B.T. Batsford 1986) ("An archaeologist was heard to remark that 'Coins are only well dated pieces of metal.' He was of course wrong: coins are not usually well dated nor are they necessarily of metal. But these small technical points aside, the drift of the comment well reflects the place coin studies have occupied in the archaeological world. Coins are perceived as dating evidence, as art objects and as unique species of evidence that is best left to the numismatist and confined to the museum strong room at the earliest possible moment. It is the purpose of this short book to bring to the attention of archaeologists and historians something of the full potential of coin evidence.").

[5] See Frank L. Holt, Thundering Zeus: The Making of Hellenistic Bactria 109 (University of California Press 1999) ("Even some advocates of the 'New Archaeology,' which treats every shred of evidence (even stray seeds and splinters) with utmost care, seem all too willing to sacrifice bronze coins. At Kourion, for example, the excavation director speaks of a 'power struggle' over the handling of stray coins: 'I needed the coins cleaned as soon as possible for purposes of dating and identification; but the conservators, as is their wont, lobbied for the safest and slowest methods. The reader will perhaps not be surprised to learn that the dig director won out, particularly since the coins were hardly art treasures, and were in very bad shape.' Bronze coins have long been valued as chronological indicators and little more; old habits die hard."); Peter K. Tompa (unattributed author), "Mary Washington College Presents Symposium," American Numismatic Society Magazine 8, 10 (Spring 2002) (noting that the common view that coins are only valuable as evidence for dating archaeological strata and not as objects in themselves probably helps explain why there are so few site publications, why find spots are not always recorded, and why smaller coins are not even recovered.).

(bullion). Some of the first coins that circulated in the area included Athenian Tetradrachms. These large silver coins, weighing approximately 17 grams, bear a depiction of the Goddess Athena on the obverse, and her familiar, the Owl, on the reverse. Persian governors (satraps) struck copies of these "Owls" before Alexander conquered the area in 329 BC. Alexander's successors struck coins in Bactria (Northern Afghanistan). Many issues are notable for their fine portraiture. Since that time, coins were struck in what is now Afghanistan by the Mauryan Empire, the Kushan Empire, the White Huns, the Turks, the Mongols, and the Savids. Millions of such coins circulated throughout Central Asia, Pakistan and parts of India. In addition, "foreign" coins, like those issued by the Sassanian Persians and Romans, also circulated in the area by the thousands upon thousands. In this regard, it is important to note ancient mintages could be quite large. For example, "Francois de Callatay [a Belgian scholar] has calculated that 28,000,000 Alexander [the Great] drachms were produced in Asia Minor down to 300 B.C.E.; Martin Price [a British scholar] more than doubled that estimate for this single denomination in one region of the empire." (Frank Holt, Alexander the Great and the Mystery of the Elephant Medallions 140 (University of California Press 2003).) Indeed, historical coins are so numerous with millions of examples extant that stewardship of the world's numismatic heritage requires interested members of the public to collect, study, conserve record and publish historical coins both individually and collectively through membership in and support of organizations such as the American Numismatic Association and the American Numismatic Society.

- ***Coins are not National Treasures.*** Ancient coins struck in Afghanistan have been widely collected and traded by Westerners since at least the early 1800's.[6] Even in recent times, the Afghan government did not treat coins as national treasures. In the pre-Communist era (before1978), ancient coins were sold openly in antiques shops on Chicken Street and Pakistani Embassy Street in Kabul. Traders would also sell thousands of coins in parks where they would be displayed on rugs. Tribal leaders, militia commanders and local people who continue to sell coins presumably believe that they are only following that tradition.

B. Congress Should Consider the Practical Problems Associated with the Proposed Legislation—Particularly to the Small Business of the Numismatic Trade—Before Making a Grand But Inherently Flawed Statement in Support of Preservation of Afghanistan's Cultural Heritage.

- ***The Import Restrictions Authorized in H.R. 915 are Anti-Small Business.*** The House recently passed H. Res. 22 calling for a "Small Business Bill of Rights," but H.R. 915 is profoundly troubling on a practical, business related level to the small businesses that comprise the numismatic trade. In particular, the suggested remedy of import restrictions is grossly overbroad and can only lead to an import ban on any coin type deemed to have possibly come from Afghanistan. In fact, import restrictions presuppose that a coin was in Afghanistan in the first place when in all likelihood the truth is the opposite. The bill supposedly aims to fight looting of archaeological sites in Afghanistan, but it does so by authorizing U.S. Customs to seize coins entering the United States from third countries solely because they "look" similar to like kind items on a Department of State/U.S. Customs web site. In order to avoid detention and sei-

[6] English gentlemen who served with the British colonial administration in India formed many notable collections. As early as 1832, British adventurer Charles Masson began collecting coins in Afghanistan. (Elizabeth Errington, *Discovering Ancient Afghanistan, The Masson Collection,* Minerva Vol. 13 No. 6 at 53 (Nov./Dec. 2002). Masson himself estimated that he collected some 60,000 coins during his travels in the country from 1833–1838. (*Id.*) English collector/scholars also included Dr. Richard Bertram Whitehead (1879–1967). His Notes on Indo-Greek Numismatics (reprinted in Whitehead, Indo-Greek Numismatics (Argonaut 1969)), gives some sense of the collector spirit of the time, "I record some general observations, based on my sixteen years' experience as an active collector in the Punjab, on the position and extent of the dominions of the Bactrian Greeks in India under Heliocles and his successors, as deduced more especially from the find spots, distribution, and monograms of their coins." (*Id.* at 294.) Americans also have long enjoyed collecting, studying and preserving coin types that circulated in the area of modern Afghanistan. A number of prominent American collectors bought ancient coins in Afghanistan during its heyday as a tourist destination in the 1960's and early 1970's. Of course, coins of the type that circulated in Afghanistan have also been available for purchase in the U.S. for many decades. For example, a noted collection formed primarily in the 1940's and 1950's by Archaeological Institute of America Trustee and American Numismatic Society Council Member Arthur Dewing contained examples of coins issued by Greco-Bactrian and Indo-Scythian rulers. (Leo Mildenberg and Silvia Hurter, The Arthur S. Dewing Collection Nos. 2716–2731 (ANS 1985).)

zure, any small business importing coins will be required to certify: (1) that the coin in question (a) left Afghanistan before imposition of import restrictions; or (b) left Afghanistan accompanied by an export certificate. This burden is simply an impossible one for the small businesses of the numismatic trade to meet. Coins that circulated in Afghanistan cannot be distinguished from those that circulated in Northern India, Pakistan, Central Asia or elsewhere. Now placing the burden of proof on collectors, coin dealers, and museums to show "provenance" could, therefore, "cloud the title" to hundreds of thousands, if not millions, of historical coins already in collections here and abroad. Such coins could not travel in international commerce without fear of unjustified detention and seizure.

- ***The Rationale for H.R. 915 Rests on a Falsehood.*** One of the major predicates for the bill's "emergency import restrictions" is the claim at Finding 16 that, "100 percent of the objects [from the Kabul National Museum] were stolen and vandalized." However, it has long been reported that most of the important items thought to be missing from the Afghan National Museum (including coins) have in fact been found in excellent condition. (*See* National Geographic News: Afghan Gold Treasures Photo Gallery (http://news.nationalgeographic.com/news/2004/11/photogalleries/afghan_treasure/photo3.html)(picture of Greco-Bactrian coins, captioned, "These ten silver Greco-Bactrian coins are part of the nearly 2,000 silver and gold coins recovered in a National Geographic project. The coins are among the many Afghan museum artifacts saved from 25 years of war and political upheaval.")). It is indeed unfortunate that such erroneous information continues to be used as the predicate for passage of this legislation.
- ***The Proposed Legislation Will Do Nothing to Discourage Looting.*** Restrictions on the import of coins into the United States will not impact any looting in Afghanistan because they will not diminish the power of war lords (many of whom are also members of the Afghan Government) who control the trade or the destitution of farmers, who sell artifacts they find in order to help them survive in one of the poorest countries on earth. Nor will import restrictions enforced by U.S. Customs impact the market in Pakistan where Afghan coins are sold freely with those found locally. Even if restrictions make coins worthless as collectibles (as the proponents of restrictions hope) it will only encourage destitute Afghans to melt them down as bullion to recover their metallic value.[7] No one—not even archaeologists or cultural property bureaucrats—would be served by such a result.

C. Congress Should Focus on Common Sense Measures that Foster Appreciation of Afghanistan's Culture Both Here and in Afghanistan Itself.

- ***The Subcommittee Should Limit Import Restrictions to Items of Undeniable Cultural Significance.*** Congress should reject the underlying assumptions behind overbroad import restrictions that anything "old" automatically should be considered property of a foreign state, that any artifact without a demonstrable "provenance" ("chain of custody") must be considered "stolen," and that only a limited number of archaeologists or foreign museum specialists should be allowed to study and preserve remnants of the past. Instead, Congress should only authorize import restrictions on items of undeniable cultural significance and not common items that exist in millions of examples like coins.
- ***The Subcommittee Should Investigate Other Less Onerous Measures.*** Congress should help Afghan officials explore more effective, and far less onerous means to protect the archaeological record, including better policing of archaeological sites, public education programs, reasonable regulation of the sale and use of metal detectors, and passage of fair laws that encourage members of the public in source countries to report their finds with the prospect of a monetary reward.
  - ***Congress Should Help Afghanistan Set Up a Web Site to Publicize Such Items That Remain Lost From the Afghan National Museum.*** It is our understanding that most, if not all, of the most important artifacts from the Afghan National Museum survived the Afghan Civil War and Taliban rule despite prior, highly exaggerated reports to the contrary. In any event, the best way to track down any items that may remain missing from

[7] In that part of the world, old coins are likely to be melted for their bullion value if they are not saved by numismatists. *See e.g.,* Osmund Bopearachchi & Klaus Grigo, "Thundering Zeus Revisited," 169 Oriental Numismatic Society Newsletter 22 (Autumn 2001) (noting that numismatists were only able to save approximately 70 coins from a hoard of Bactrian gold coins found in India after a jeweler had melted some of the coins.).

the Afghan National Museum is to construct a comprehensive web site of these items that can be publicized to members of the legitimate international antiquities trade. Such a web site would encourage voluntary returns of any items still missing from the Afghan National Museum without resort to draconian legislation based on the erroneous assumption that objects without a known provenance must be "stolen."

- ***Congress Should Encourage Afghan Authorities to Adopt a Law Like the United Kingdom's Treasure Act.*** Protecting sites is more complex, but the best antidote to looting is the institution of a fair system akin to the British Treasure Act. This is a reporting system that awards finder fair value for items the state wants to retain for its national collections. Other items are returned to the finder after being recorded. Costs of such a system should be minimal, particularly in places like Afghanistan where impoverished farmers will most likely accept small amounts of money in return for such artifacts as they find. In the United Kingdom, this law has been judged a success ***because it recognizes that archaeologists and the state are not the only parties with legitimate interests.***[8] In particular, the Treasure Act provides state museums a right of first refusal, finders with the prospect of a reward based on fair market value, dealers and collectors with the prospect of access to coins with a demonstrable provenance, and archaeologists with reports on finds that may lead to the discovery of otherwise unknown archaeological sites. Efforts should be made to at least explore whether a version of this law may work in Afghanistan.
- ***At a Minimum, the Following Modifications Should be Made to the Legislation. The concerns of coin collectors and coin dealers can only be fully addressed with a "coin exemption" that recognizes that there are simply too many historical coins circulating world wide to be considered items of "cultural significance" for which import restrictions are appropriate.[9] Failing that IAPN, PNG and ACCG suggest the following modifications to H.R. 915:***
- Factual findings 15–17 should be deleted in favor of a more accurate statement concerning the justification for the proposed legislation.
- Meaningful review of any proposed import restrictions by the Cultural Property Advisory Committee should be preserved.
- Any specific reference that can be taken as a "green light" to impose import restrictions on coins should be deleted.
- The definition of "archaeological or ethnological material of Afghanistan" must be modified to make clear that import restrictions can only be imposed on archaeological objects of clear "cultural significance" that are at least 250 years old, and objects of ethnological interest that are considered "important to the cultural heritage of a people because of their distinctive characteristics,

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[8] For a critique of the elitism inherent in the present system of international cultural property laws, *see* John Henry Merryman, Cultural Property Internationalism 12 International J. of Cul. Prop.11 (2005). For a description of the success of the Treasure Act, s*ee e.g.,* Peter A. Clayton, *"Treasure: Finding our Past,"* Vol. 15 No. 1 Minerva 8 (2004) (discussing success of Treasure Act); "Arts Minister Estelle Morris Welcomes Further Rise in Number of Treasure Finds and Says Figure Likely to Reach 500 in 2004," Department for Culture, Media and Sport Press Notices 142/04 (October 26, 2004) ("We've all dreamed of uncovering hidden history, from ancient deeds in our attics to Saxon gold in our gardens. Between them, the Treasure Report and the Portable Antiquities Scheme report, which covers 47,000 items found by the public last year, provide a comprehensive record of the public's most recent discoveries-from the everyday to the truly extraordinary."). For an eloquent plea to Italy to adopt a law akin to the Treasure Act and the complimentary "Portable Antiquities Scheme," *see* Anna Somers Cocks, *"Make the Citizen Your Ally if You Want to Save the Nation's Past,"* The Art Newspaper 26 (Feb. 2005) ("It is many years since archaeology has been principally a treasure hunt. Now that the real treasure is information, and the finds, once recorded could theoretically anywhere in the world without damaging the patrimony of their find country and our global heritage."). While it might be suggested that Afghanistan could ill-afford such a system, the costs in the "First World" United Kingdom have been minimal (₤ 1.3 million in 2003 according to Anna Somers Cocks), and must be contrasted with very considerable costs in forcing compliance in addition to the more difficult to calculate "psychic" costs associated with the ill-will tough antiquities legislation may generate both in Afghanistan and here in the United States.

[9] After a meeting with Congressmen English and Leach in July 2003, the numismatic community received the commitment of both Congressmen to press for a "coin exemption" in the bill they were sponsoring on Iraqi antiquities. How this commitment was forgotten and replaced with a bill that *specifically authorizes* import restrictions on coins has raised considerable concern and disappointment within the numismatic community. *See e.g.,* B. Deisher, "Lawmaker Turns Blind Eye to Truth," Coin World 10 (March 21, 2005).

comparative rarity, or contribution to the knowledge of the origins, development, or history of that people."

- U.S. Customs should be directed to only to enforce restrictions on items where there is a "reasonable suspicion" that an item was illegally removed from Afghanistan ***and such reasonable suspicion cannot solely rest on the fact that an item being imported bears a resemblance to a type of item known to have come from Afghanistan.***

Oxford, Ohio 45056
September 2, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I am writing to urge your support for including H.R. 915 in the Miscellaneous Tariffs Bill. Afghanistan benefits from being know as the crossroads of civilizations. This is where Alexander the Great defeated Darius III, and marched his army through the Kunar Valley to reach India, and houses the Silk Road which brought Roman glass and Chinese lacquer. I could keep making a longer list of the events that have happened in this country. To have such a history is a great achievement to a country. Would you be happy if people smuggled American artifacts to Europe and displayed them there or sold them for pocket change? I don't think so; you would want these artifacts and objects to e safe in a museum and to educate our population. Afghanistan is no different. They wish to have their works of art exhibited for their people as well. Afghanistan has suffered enough with the burning of their museums stealing of artifacts, we should not let looters think what they are doing is right. With the passing of this legislation we will have started a trend to stop the pillaging of country's histories.

Please help us save the past for our future, thank you.

Yours sincerely,

Christine Jauch

Vassar College
Poughkeepsie, New York 12604
August 23, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I am an archaeologist and professor, and one of my most important tasks is teaching young people the importance of ethical behavior in all that they do, both in their daily lives and in their archaeological endeavors.

I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan.

This legislation is necessary because archaeological sites are now being looted on a large scale in Afghanistan. The heritage of Afghanistan has played an important role in the world's historical and cultural development. The looting of sites destroys the historical, cultural, religious and scientific information that is derived through the careful, systematic excavation of sites. When this record is destroyed we are all the poorer for it.

The looting of sites and theft from museums in Afghanistan have been significant problems for many years. As with Iraq, the United States has undertaken a special

relationship with Afghanistan. Concern for preservation of the cultural heritage of Afghanistan must be given equal consideration.

Sites are looted of antiquities so that they can be sold ultimately to markets in Western Europe and the United States. It is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials and thereby reduce the incentive for theft and destruction of archaeological sites. Enactment of this legislation will help the United States to fulfill its obligations to the Afghan people and help to enrich our understanding of the world's and our own cultural heritage.

Please support this legislation and show our students that not only they, but also their government, can act in ethically responsible ways.

Sincerely,

Lucille Lewis Johnson
Professor of Anthropology

Encino, California 91436
September 1, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan. This legislation is necessary because archaeological sites are now being looted on a large scale in Afghanistan. The heritage of Afghanistan has played an important role in the world's historical and cultural development. The looting of sites destroys the historical, cultural, religious and scientific information that is derived through the careful, systematic excavation of sites. When this record is destroyed we are all the poorer for it.

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Sincerely,

Matthew Johnson

Bloomington, Indiana 47405
August 23, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan

cultural institutions and other locations, particularly archaeological sites in Afghanistan.

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Sincerely,

Erin Kuns
PhD Candidate
Indiana University

Lawyers' Committee for Cultural Heritage Preservation
Chicago, IL 60604
September 1, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Subcommittee on Trade, Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington DC 20515

Dear Chairman Shaw:

I am submitting this letter on behalf of myself and the Lawyers' Committee for Cultural Heritage Preservation [1] in support of the inclusion of H.R. 915, Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan"), in the Miscellaneous Tariffs bill. This bill grants the authority to the President to impose emergency import restrictions under the Convention on Cultural Property Implementation Act (CPIA) to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from the cultural institutions and archaeological sites of Afghanistan.

Afghanistan was the Central Asian crossroads and part of the Silk route throughout much of ancient and medieval history and thus is the location of sites and monuments of the Hellenistic, Gandharan, and Persian, as well as Islamic, cultures. Afghanistan is perhaps best known for the fusion of Ancient Greek and Indian cultures, which produced its own distinctive artistic style. Afghanistan's cultural repositories and archaeological sites have suffered extensively since the 1970s—at the hands of Soviet occupiers, the mujahedeen, the Taliban and general lawlessness and lack of effective civil authority. The Kabul museum was attacked and looted numerous times. Despite the routing of the Taliban in late 2001, Afghanistan's archaeological sites and other cultural monuments outside of the main cities remain vulnerable to looting and, in fact, are being looted on a considerable scale.[2]

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[1] The Lawyers' Committee for Cultural Heritage Preservation is an association of lawyers who have joined together to promote the preservation and protection of cultural heritage resources in the United States and internationally through education and advocacy. I am Professor of Law at DePaul University College of Law and Director of its Arts and Cultural Heritage Program.

[2] For the history of archaeology in Afghanistan and the impact of war on Afghan cultural heritage over the past twenty-five years, see Abdul Wasey Feroozi, *The Impact of War upon Afghanistan's Cultural Heritage,* Paper presented at the Annual Meeting of the Archaeological Institute of America, January 3, 2004, *available at*: http://www.archaeological.org/pdfs/papers/AIA_Afghanistan_address_lowres.pdf (detailing with photographs the looting at such Afghan sites as Ai Khanum, Balkh, Tepe Zargaran, Robatak, Samangan-Haibak, and Surkh Kotal).

Archaeological sites are composed of layers of soil, each containing a complex of artifacts, architectural remains, and floral and faunal remains. Each layer represents a specific time period in the history of the site and in human history. When a site is scientifically excavated, each layer with all its associated remains can be reconstructed to give a full picture of ancient life at a particular time. Similar time capsules are represented by burials, which often contain human remains and burial goods and can convey information about religious customs and beliefs, economic status, health, and gender roles. However, when a site is looted to obtain those artifacts prized for sale on the international art market, this archaeological context is forever lost, fragile remains are destroyed, and our ability to fully reconstruct and understand the past is permanently diminished. When sites are looted to obtain artifacts for sale on the international market, those artifacts that are not desired by the market or those that are incomplete are often discarded.

In 1983, the United States Congress enacted the Convention on Cultural Property Implementation Act, 19 U.S.C. §§ 2601–13 (CPIA), implementing our ratification of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and recognizing that the international trade in often looted archaeological objects contributes significantly to the destruction of archaeological sites, the irretrievable loss of scientific, cultural, and artistic information, and the impoverishment of our and the world's historical record. When Congress enacted and President Reagan signed the CPIA into law, the Senate Report that accompanied the CPIA stated:

The expanding worldwide trade in objects of archaeological and ethnological interest has led to wholesale depredations in some countries, resulting in the mutilation of ceremonial centers and archaeological complexes of ancient civilizations and the removal of stone sculptures and reliefs. . . . The destruction of such sites and the disappearance of the historic records evidenced by the articles found in them has given rise to a profound national interest in joining other countries to control the trafficking of such articles in international commerce.

Senate Report No. 97–564.

The CPIA, in part, created a mechanism by which other nations that are party to the Convention can request that the United States impose import restrictions on designated categories of archaeological and ethnological materials. Such materials cannot enter the United States unless they have been legally exported from their country of origin or left the country of origin before the effective date of the import restrictions. The process by which the determination is made to impose such restrictions is lengthy and burdensome to the requesting nation. In addition, in order to submit a request for import restrictions, the requesting nation must be a party to the 1970 Convention.

Afghanistan has not yet ratified the Convention and has therefore been unable to bring such a request to the United States, despite the significant looting of archaeological sites. The political stability that Afghanistan had enjoyed under a centrist monarchy was shattered in 1973 when the monarchy was overthrown and decades of political chaos ensued. During this period, it was impossible for Afghanistan to fulfill the requirements for ratifying the Convention. Following establishment of President Karzai's government, Afghanistan has been progressing toward ratification, but this has required, among other time-consuming tasks, the writing of new laws. Even once Afghanistan ratifies the Convention, it would have to prepare a request with supporting documentation, which would likely require several years, unless H.R. 915 is enacted into law.

This legislation will allow the President to exercise his authority under the CPIA to impose import restrictions on Afghan cultural materials that have been looted and illegally removed from Afghanistan. It would also eliminate the requirements that Afghanistan first ratify the Convention and that Afghanistan submit a request to the United States.

I and the Lawyers Committee for Cultural Heritage Preservation strongly support this legislation because it will provide a quick and effective means of reducing the incentive to loot archaeological sites and museums. In this way, the United States will be helping to fulfill our special responsibilities to Afghanistan and to preserve the world's cultural heritage. I and the Lawyers' Committee would be happy to provide any technical assistance you or the Committee may wish in enacting this legislation.

Patty Gerstenblith
Professor and President

The College of William and Mary
Williamsburg, VA 23185
August 26, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan. This legislation is necessary because archaeological sites are now being looted on a large scale in Afghanistan. The heritage of Afghanistan has played an important role in the world's historical and cultural development. The looting of sites destroys the historical, cultural, religious and scientific information that is derived through the careful, systematic excavation of sites. When this record is destroyed we are all the poorer for it.

I feel particularly strongly about this issue as a professional archaeologist. I have lived outside of the United States for a number of years during my education and work and I know that American scholars are often looked to as representatives of their country both by the scholarly and local communities in the countries where we carry out our work. We are often asked questions about United States political policy as it pertains to preserving and maintaining the culture and history of our host countries. It is vital to the future of both the United States and the rest of world to think beyond present events to ensure the preservation of the extant remains of past world cultures. As an archaeologist who is an American I know that we need to acknowledge and celebrate the cultural heritage of other countries both for the general edification of current and future populations, and so that we may maintain the relationships that enable Americans to be in the forefront of advances in all areas of scholarship.

The looting of sites and theft from museums in Afghanistan have been significant problems for many years. As with Iraq, the United States has undertaken a special relationship with Afghanistan. Concern for preservation of the cultural heritage of Afghanistan must be given equal consideration.

Sites are looted of antiquities so that they can be sold ultimately to markets in Western Europe and the United States. It is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials and thereby reduce the incentive for theft and destruction of archaeological sites. Enactment of this legislation will help the United States to fulfill its obligations to the Afghan people and help to enrich our understanding of the world's and our own cultural heritage.

Shawna Leigh
Visiting Assistant Professor

[By permission of the Chairman.]

Gteborg, Sweden
September 1, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in

the Miscellaneous Tariffs bill. As an archaeologist I am concerned about the destruction of archaeological sites in Afghanistan which is fuelled by market demand in Western countries, including the United States.

I would like to point out that not only our common heritage is a victim of the looting and illicit trade. It also takes a toll of human lives. For example, in 2004 it was reported that four police officers were murdered when dispatched to protect an archaeological site.

(D. van der Schriek "Warlords loot Afghanstan's cultural heritage with impunity" Eurasia Insight, 10/08/04.) The article mentions that local war lords fund their armies through antiquities smuggling.

I would also like to draw to your attention to that the illicit antiquities trade may also have been used to fund terrorism. This summer it was reported that the police investigation in Germany on the terrorist cell in Hamburg had revealed that Muhammed Atta, allegedly the pilot of one of the planes which crashed into World Trade Center, had approached a German art historian to ask for advice on how to sell "valuable antiquities" from Afghanistan. According to the art historian, Atta had mentioned that "he wanted to purchase an aircraft".

It is not known, and will probably never be known, whether Atta actually proceeded with his plans to sell antiquities, nor is it known exactly how the September 11 attacks were funded, but the sheer possibility that it may have been funded through antiquities smuggling from Afghanistan, in my view, a strong argument in favor of imposing emergency import restrictions to prevent the import into the United States of antiquities that have been illegally removed from Afghan.

Staffan Lundén

Westfield, New Jersey 07090
August 17, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

As a professional archeologist and a concerned American citizen, I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological

materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan.

Archaeological sites are now being looted on an alarmingly large scale in Afghanistan. The heritage of Afghanistan has played an important role in the world's historical and cultural development. The looting of sites destroys the historical, cultural, religious and scientific information that may be derived through careful and systematic investigation of sites. All people interested in prehistory, history and the development of modern civilization should be concerned about this issue. When the archaeological record is destroyed we are all affected.

The looting of sites and theft from museums in Afghanistan have been significant problems for many years. As with Iraq, the United States has undertaken a special relationship with Afghanistan. Concern for preservation of the cultural heritage of Afghanistan must be given equal consideration. Sites are looted of antiquities so that they can be sold ultimately to markets in Western Europe and the United States. It is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials and thereby reduce the incentive for theft and destruction of archaeological sites. Enactment of this legislation will help the United States to fulfill its obligations to the Afghan people and help to enrich global understanding of the world's cultural heritage.

Very truly yours,

Sydne B. Marshall, Ph.D., RPA

Murfreesboro, Tennessee 37132
August 30, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I am a Professional Archaeologist and Assistant Professor of Anthropology writing to you to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. Such legislation is of worldwide, and immediate, interest.

This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan. The heritage of Afghanistan has played an important role in the world's historical and cultural development.

This legislation is necessary due to the large-scale looting of archaeological sites taking place in Afghanistan. The looting of sites destroys the historical, cultural, religious and scientific information that is derived through the careful, systematic excavation of sites. When this record is destroyed we are all the poorer for it.

The looting of sites and theft from museums in Afghanistan have been significant problems for many years. As with Iraq, the United States has undertaken a special relationship with Afghanistan. Our concern for the preservation of the cultural heritage of Afghanistan must be given equal consideration.

Sites are looted of antiquities so that they can be sold ultimately to markets in Western Europe and the United States. It is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials and thereby reduce the incentive for theft and destruction of archaeological sites. Enactment of this legislation will help the us, the United States of America, to fulfill our obligations to the Afghan people and help to enrich our understanding of the world's, and our own, cultural heritage.

Tanya M. Peres, Ph.D.
Assistant Professor

Las Cruces, NM 88012
September 2, 2005

Congressman E. Clay Shaw, Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

I am writing to express my concerns about a piece of legislation authorizing import restrictions relating to Afghan artifacts (H.R. 915) that appears to be ready to be folded into the Miscellaneous Trade Bill. Congress should exempt coins from any such restrictions. If that is not feasible, Congress should refer the matter to the U.S. Cultural Property Advisory Committee for consideration or, at the very least, severely limit Customs' authority to seize coins without conclusive proof that they were illegally removed from Afghan institutions or archaeological sites.

Coins are not national treasures. Historical coins were struck in the millions and circulated widely in antiquity as hard currency. Consider the flow of dollars across borders today. Ancient coins crossed borders in a similar way. Placing the burden of proof on collectors to show "provenance" could "cloud the title" to hundreds of thousands, if not millions, of historical coins already in collections here and abroad. Such coins could not travel in international commerce without fear of unjustified detention and seizure.

Import restrictions wrongly assume that Customs can reasonably rely on generic lists of coins that circulated in Afghanistan to trigger an importer's obligation to document country of origin. However, such an assumption places an impossible burden on importers of coins. Coins typically lack a "provenance." It is quite unusual to know where or when a specific coin may have been excavated, or whether it has passed through the centuries as a store of value.

Your assistance in ensuring that Congress take action to ensure that the problems described above are dealt with before this legislation becomes law will be greatly appreciated.

Robert O. Pick

[By permission of the Chairman:]

Oslo, Norway
August 18, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I am a Norwegian citizen writing to you to humbly urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. Such legislation is of worldwide interest.

This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan.

This legislation is necessary because archaeological sites are now being looted on a large scale in Afghanistan. The heritage of Afghanistan has played an important role in the world's historical and cultural development. The looting of sites destroys the historical, cultural, religious and scientific information that is derived through the careful, systematic excavation of sites. When this record is destroyed we are all the poorer for it.

The looting of sites and theft from museums in Afghanistan have been significant problems for many years. As with Iraq, the United States has undertaken a special relationship with Afghanistan. Concern for preservation of the cultural heritage of Afghanistan must be given equal consideration.

Sites are looted of antiquities so that they can be sold ultimately to markets in Western Europe and the United States. It is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials and thereby reduce the incentive for theft and destruction of archaeological sites. Enactment of this legislation will help the United States to fulfill its obligations to the Afghan people and help to enrich our understanding of the world's and our own cultural heritage.

Yours sincerely,

Josephine Munch Rasmussen

Berrien Springs, Michigan 49104
August 24, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw:

I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs

bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan.

This legislation is necessary because archaeological sites are now being looted on a large scale in Afghanistan. The heritage of Afghanistan has played an important role in the world's historical and cultural development. The looting of sites destroys the historical, cultural, religious and scientific information that is derived through the careful, systematic excavation of sites. When this record is destroyed we are all the poorer for it.

The looting of sites and theft from museums in Afghanistan have been significant problems for many years. As with Iraq, the United States has undertaken a special relationship with Afghanistan. Concern for preservation of the cultural heritage of Afghanistan must be given equal consideration.

Sites are looted of antiquities so that they can be sold ultimately to markets in Western Europe and the United States. It is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials and thereby reduce the incentive for

theft and destruction of archaeological sites. Enactment of this legislation will help the United States to fulfill its obligations to the Afghan people and help to enrich our understanding of the world's and our own cultural heritage.

Paul Ray, Ph.D.
Director of Archaeological Publications

Seattle, WA 98112
September 2, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan. This legislation is necessary because archaeological sites are now being looted on a large scale in Afghanistan. The heritage of Afghanistan has played an important role in the world's historical and cultural development. The looting of sites destroys the historical, cultural, religious and scientific information that is derived through the careful, systematic excavation of sites. When this record is destroyed we are all the poorer for it.

The looting of sites and theft from museums in Afghanistan have been significant problems for many years. As with Iraq, the United States has undertaken a special relationship with Afghanistan. Concern for preservation of the cultural heritage of Afghanistan must be given equal consideration.

Sites are looted of antiquities so that they can be sold ultimately to markets in Western Europe and the United States. It is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials and thereby reduce the incentive for theft and destruction of archaeological sites. Enactment of this legislation will help the United States to fulfill its obligations to the Afghan people and help to enrich our understanding of the world's and our own cultural heritage.

Angela Redman

Saving Antiquities for Everyone
Jersey City, New Jersey 07310
September 6, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives
1236 Longworth House Office Building
Washington, D.C. 20515–0922

Dear Congressman Shaw,

I am writing to urge your support for including **H.R. 915 Cultural Conservation of the Crossroads of Civilization Act** ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This gives the President the authority to impose restrictions to prevent the import into the United States of cultural materials that have been illegally removed from Afghanistan.

It is worth reminding ourselves that, nearly four years after the U.S.-led invasion of Afghanistan, 18,000 U.S. troops remain on the ground there today. America's responsibilities to the fledgling Afghanistan government are obvious. One of those duties is to respect Afghan law.

Under Afghanistan law—the **Code for the Protection of Antiquities in Afghanistan (1958)**—every Afghan antiquity (artistic relic and monuments, moveable or immovable, dating prior to 1748) illegally excavated and smuggled from that country is considered stolen property. The Code for the Protection of Antiquities in Afghanistan has been governing law since 1958.

The best way for the United States to voice its respect for Afghan law is to pass H.R. 915, urge the Senate to pass similar legislation, and present the final bill to the Presidential for his signature.

The seriousness of this issue becomes clear after reviewing the large number of Afghan antiquities now in the U.S.—in major museums, at universities and in private collections—that were illegally excavated (looted) and smuggled from Afghanistan. Even though such artifacts are considered stolen property by the Afghan government, Americans continue to import and acquire these looted artifacts with impunity—despite recent court rulings [United States v. Schultz, 333 F.2d 393 (2d Cir. 2003)] that make artifacts exported in violation of a source country's laws and imported to the U.S. subject to the National Stolen Property Act (18 U.S.C. §§ 2314—15).

I trust you will support passage of H.R. 915 Cultural Conservation of the Crossroads of Civilization Act. I thank you for giving this matter your time and consideration.

Yours sincerely,

Cindy Ho

Society for American Archaeology
Washington, DC 20002
August 19, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade
House Ways and Means Committee
1104 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw:

The Society for American Archaeology respectfully requests that H.R. 915, the Cultural Conservation of the Crossroads of Civilization Act, be included in the miscellaneous trade legislation package that the subcommittee will consider later this year. This legislation would serve a vital purpose by enabling the U.S. to assist Afghanistan in its struggle against those who engage in the illicit excavation and trafficking of its cultural heritage.

SAA is an international organization that, since its founding in 1934, has been dedicated to the research, interpretation, and protection of the archaeological heritage of the Americas. With more than 6,800 members, the Society represents professional archaeologists in colleges and universities, museums, government agencies,

and the private sector. SAA has members in all 50 states as well as many other nations around the world.

H.R. 915 would amend the Cultural Property Implementation Act (CPIA) to allow the President to impose emergency import restrictions on antiquities and works of art illegally excavated and exported from Afghanistan. Current law prevents the President from doing so. Under the existing CPIA, nations that are suffering from looting, and that are signatories to the 1970 UNESCO Convention on the prevention of illicit trafficking in cultural property, can request that the U.S. impose import restrictions on categories of cultural property that are threatened by looters. These restrictions are designed to stanch the importation of illegally-procured objects into the U.S. Unfortunately, Afghanistan has not ratified the 1970 UNESCO Convention, and thus cannot ask the U.S. for such protection. H.R. 915 would allow the President to impose such restrictions, upon the government of Afghanistan's request, even though that nation is not a signatory to the 1970 Convention. The restrictions would remain in effect until September 30, 2010, or five years after the date upon which relations between the U.S. and Afghan governments are established, whichever is earlier.

There is no question that Afghanistan is suffering from an epidemic of looting of its cultural resources. Two decades of near-constant war have seen devastating amounts of damage inflicted on that country's ancient and unique cultural heritage. The Afghan people, as well as the world's peoples, are losing an immense and irreplaceable heritage. What is lost is not only the objects, as important as they are, but also knowledge of the past. When archaeological materials are unscientifically removed from their resting places, an enormous amount of information about the objects, the places they came from, and the people who lived there, is lost. Quite often the objects themselves disappear forever, sold on the black market or in auction houses under fraudulent circumstances. Unfortunately, our nation is a major market for such goods. That is why this legislation is so badly needed. The import restrictions that H.R. 915 would make possible—while no panacea—would make a substantial improvement in our ability to deter the illegal excavation and trafficking of Afghan cultural materials.

The SAA respectfully requests the inclusion of H.R. 915 in the upcoming omnibus trade legislation.

Sincerely,

Kenneth M. Ames
President

The Field Museum
Chicago, Illinois 60605
September 2, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Subcommittee on Trade, Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington DC 20515

Dear Chairman Shaw:

I am submitting this letter to urge your support for the inclusion of H.R. 915, Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan"), in the Miscellaneous Tariffs bill. This bill grants the authority to the President to impose emergency import restrictions under the Convention on Cultural Property Implementation Act (CPIA) to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from the cultural institutions and archaeological sites of Afghanistan.

Too often, public perception has held that the value of archaeological research is based only on the recovery of beautiful objects. Archaeological research, however, relies on detailed and extensive analysis of all of a site's contents, from the remains of building and house layouts to material goods to faunal and floral remains to details of soil composition and chemistry. When a site is looted, the disturbance of site context has far-reaching consequences for the level and quality of information that can be recovered through scientific methods. Looters destroy far more than they know when digging indiscriminately.

I am an archaeologist specializing on the analysis of faunal remains, the ubiquitous animal bones that are so commonly a part of human living arrangements. The material that I work with is not desirable to the collector, but it is invaluable to an archaeologist interested in questions ranging across topics that include the origins of domestication, economic exchanges between societies, the nature of social status, and local environmental and subsistence conditions. Faunal material is also easily disturbed and scattered, or tossed aside, by looting.

In the specific case of Afghanistan, the world at large, and Afghanistan in particular, is losing its cultural heritage, bit by bit, on a daily basis. Afghanistan sits on a crossroads that have made it a lively and dynamic location for trade in goods, ideas, beliefs, and technology. The ancient Silk Road crossed Afghanistan bringing into contact people and cultures from the Far East, the Mediterranean basin, and South Asia. Early Buddhist and Persian cities and states flourished, and their histories inform us on geopolitical currents in the ancient world.

A country with a rich and varied history is rich indeed, and it is my belief that bills such as H.R. 915 do exert a positive influence by restricting demand for illegally looted artifacts, and thus also serve to discourage supply of these items. Given the special relationship that the United States has formed with the country of Afghanistan, imposition of import restrictions on illegally excavated antiquities is one way in which to help conserve a fascinating and important region's cultural history.

Deborah Bekken
Adjunct Curator

[By permission of the Chairman:]

The World Archaeological Congress
Adelaide, SA, 5001, Australia
August 29, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

The World Archaeological Congress (WAC) urges you to support the inclusion of H.R. 915 Cultural Conservation of the Crossroads of Civilization Act (A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan) in the Miscellaneous Tariffs bill that is presently before the House of Representatives.

The WAC strongly supports this initiative, which would provide legal means to prevent the importation into the United States of illegally removed Afghan antiquities and other cultural materials. Significant artifacts and works of art are currently being looted from archaeological sites in Afghanistan with a view to being sold ultimately to markets in Western Europe and the United States. With this

legislation, the incentive to participate in this theft will be significantly minimized.

The World Archaeological Congress is an international organization, which represents professional archaeologists in tertiary institutions, museums, government agencies, and the private sector from more than 90 countries. It seeks to promote interest in the past in all countries, to encourage the development of regionally based histories and international academic interaction, and has a particular interest in:

- education about the past
- archaeology and indigenous peoples
- the ethics of archaeological enquiry
- the protection of sites and objects of the past
- the effect of archaeology on host communities
- the ownership, conservation and exploitation of the archaeological heritage
- the application of new technologies in archaeology and in archaeological communication
- the place of archaeology in a post-colonial world.

In the past, the U.S. government has exercised thoughtful responsibility for its own national heritage, knowing that it is irreplaceable, and has acknowledged the protective value of appropriate legislation.

The WAC believes that this proposed legislation is vital for the protection of the heritage of Afghanistan—a heritage that has played an important role in the world's historical and cultural development. Archaeological treasures have inherent value to cultural identity, not only to the Afghan people, but to the world community as well. In the last two decades looting in Afghanistan has been devastating to that country's cultural heritage. The current looting of archaeological sites destroys the historical, cultural, religious and scientific information that is derived through the careful, systematic excavation of sites. When this record is destroyed we are all the poorer for it.

The United States has undertaken a special relationship with Afghanistan, as they have previously done with Iraq. Concern for preservation of the cultural heritage of Afghanistan must be given equal consideration. It is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials.

With the enactment of this legislation the United States will take another crucial step towards fulfilling its obligations to the Afghan people and our understanding of the world's and our own cultural heritage will be significantly enriched.

Dr Claire Smith
President

Dr Larry J. Zimmerman
Vice President

Chicago, Illinois 60605
September 2, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade, Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw:

Like many other people in the world, I am extremely concerned about the destruction of Afghanistan's cultural heritage. Since our country took on the responsibility of trying to provide a better future for the people of Afghanistan, we cannot ignore the issue of protecting archaeological and ethnological materials. I urge you to support H.R. 915, the Cultural Conservation of the Crossroads of Civilization Act. Our President needs the authority to impose emergency import restrictions of such objects, so that cultural materials (modern, historic, and ancient) from sovereign nations like Afghanistan are protected. Americans like myself deeply value our own cultural heritage, and we understand the similar feelings of the people of Afghanistan.

As a professional archaeologist and anthropologist, I know that the destruction of ancient sites and traditionally valued craft goods and related objects is devastating to people from the affected communities and to the scholarly community as a whole. The illegal removal of archaeological and ethnological items is often done in conjunction with the destruction of cultural sites that are equally meaningful to people. We owe it to the world as a whole to help protect the rich cultural heritage of Afghanistan. Our gesture proving to the world that we care about Afghanistan's cultural heritage will improve goodwill in this region, and beyond.

Anne P. Underhill, Ph.D.
Associate Curator and Professor, Asian Anthropology

Unidroit-L
Goleta, CA 93117
August 30, 2005

E. Clay Shaw, Jr., Chairman
Ways and Means Committee
Subcommittee on Trade
United States House of Representatives
1236 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

I am writing regarding forthcoming hearings on H.R. 915, particularly inclusion of ancient coins in the list of restricted items.

I am founder and listowner of Unidroit-L, a discussion group dedicated to study and discussion of cultural property law and the impact of such laws on collectors. Next to the 1995 Unidroit Convention, the 1970 UNESCO Convention and its implementation have been our most active topic. Members of this list include archaeologists, curators, educators, legal experts and researchers, as well as collectors and dealers.

Unidroit-L has critically examined effects of cultural property law on antiquities collecting, including specific conventions and legislation. Early in this study, it became apparent that cultural property laws have been drafted without consideration of methods by which the antiquities market actually functions, or of practices normally followed by collectors and dealers in buying and selling antiquities. Certain provisions of these laws would in practice be quite unrealistic and unreasonable, for example those requiring documentation of provenance for artifacts of small value such as coins, for which provenance records have never been kept.

In our discussions it soon became evident that divergences between perception and reality severely hamper development of realistic, effective cultural property laws. Misconceptions and stereotypes exist on both sides. Archaeologists tend to think of collectors as wealthy bankers, seeking rare and important antiquities to adorn their villas, without regard for laws violated or damage done when archaeological sites are plundered to satisfy their lust for the beautiful and rare. Collectors tend to think of archaeologists as arrogant and unrealistic academics, demanding total control of all excavations and everything ever dug up, without regard for economic practicality or damage to innocent, beneficial avocations such as collecting coins.

When real archaeologists and real collectors meet in circumstances allowing rational discussion, they find that such preconceptions are wrong. Real collectors are not bankers jealously hoarding ancient treasures in their vaults, and real archaeologists tend to be quite reasonable people once you get to know them. When preconceptions and ideology are set aside, genuine progress toward preserving cultural heritage can be made while preserving and encouraging responsible, ethical collecting. Such free intellectual interchange does not often happen, because ideology rather than practical reality is presently driving developments.

It has become an article of faith among preservationists that the antiquities market and antiquities collecting are the source of all ills threatening preservation of cultural heritage. If private collecting of antiquities could only be eliminated, so preservationists believe, there would be no market for stolen, smuggled or illegally exported artifacts, and according to this point of view, plundering of archaeological and cultural heritage sites would cease.

This is a naíve and unrealistic perspective. Anticollecting ideology has isolated preservationists from the antiquities market for so many years that they do not understand how it functions. Those in the trade know that no government or international organization will ever have the power to abolish the antiquities market. It will continue in one form or another, whatever laws or conventions may be enacted. Declaring the antiquities trade to be illegal would only ensure that instead of being openly conducted by responsible dealers bound by codes of ethics and laws, it would become a black market activity conducted by criminals. In the 1920s a similarly mistaken policy, when sale of alcoholic beverages was made illegal by the Volstead Act, did major social damage in the United States. It is recognized today that these negative consequences far outweighed any good that could possibly have been achieved. That unwise repressive law did not even reduce consumption of alcohol, which actually increased.

Nations whose cultural heritage is threatened by looting and smuggling of antiquities and other cultural objects do not lack repressive laws. Every such state has laws prohibiting clandestine excavation or export of such items. The people of these

nations do not respect these laws, instead viewing them as measures designed to ensure that corrupt officials can extort bribes, so proceeds from discoveries will go to them rather than the finders. Repressive antiquities legislation has failed everywhere it has been enacted, even in democratic European states such as Italy. Imposing this ineffective approach within the USA cannot accomplish anything positive, but would instead bring with it the contempt for law that prevails in antiquities source countries.

One nation has effectively solved the problem of managing the desires of its people to discover antiquities and to profit from these discoveries. The United Kingdom has set a standard for the world to emulate in the Portable Antiquities Scheme. This well thought out measure has gained strong cooperation from the British public, who between April 2003 and March 2004 reported discovery of more than 47,000 artifacts. Every year reporting of finds improves, and where Finds Liason Officers have been appointed, large increases in finds reports result. Local volunteer archaeologists, regional archaeologists, and detectorist clubs have joined in training those interested in searching for antiquities, defining approved processes of responsible discovery and reporting. In addition to ensuring that finds will be reported, this cooperation has developed a valuable "scouting" system locating many new excavation opportunities. Although the Portable Antiquities Scheme is not yet ten years old and is still developing, it has already become far more effective in controlling public behavior than repressive laws in any other nation. It has conclusively proven that developing cooperation is a much better approach than repression.

Observing how ineffective repression has always been in protecting antiquities, even in days when no one collected them and those caught disturbing tombs or monuments died instantly and unpleasantly, I have come to understand that the only workable way to suppress illicit antiquities trafficking is for preservationists, cultural authorities, collectors and dealers to cooperate in establishing a regulated trade in provenanced antiquities. There are some laws everyone obeys, whether or not they realize it, among which are the laws of economics. If a regulated trade in provenanced antiquities is established, economic effects will devalue unprovenanced antiquities and illicit trade will cease, just as abruptly as rumrunning and speakeasies disappeared when a regulated legal trade in alcohol was established.

The technology and systems required to implement such a regulated trade presently exist, and are well proven in other applications. The only genuine obstacle to a cooperative licit trade is the negative, confrontational attitude of preservationists who advocate abolishing all collecting of antiquities. Cherishing illusions that legal prohibition of collecting is possible and would eliminate the illicit antiquities trade, they regard cooperation with collectors or the trade as unethical. All discoveries must be retained by institutions and cultural authorities, whether or not they have any prospect of ever being displayed to the public or being needed for research. Such vast numbers of antiquities have been amassed by official hoarding that there is no room to store them properly, no staff to inventory them, let alone organize them into collections or provide conservation. They rot unconserved on warehouse shelves where no one will ever benefit from their discovery. There have even been reports that archaeologists have broken intact ceramics not wanted by their institutions, to prevent them from falling into the hands of collectors.

The millions of surplus artifacts presently warehoused in facilities without proper staff or climate control, sometimes vermin infested, also lack proper security. For the most part these facilities are not guarded, and are in constant danger of being broken into by thieves and vandals. The loss of millions of unpublished artifacts when the Beit She'an warehouse was set afire by vandals in March 2004 stands out among many reports of such destructive incidents. Only three weeks ago, the antiquities warehouse in Sidon was broken into, and thieves vandalized the premises before smashing two sarcophagi and stealing the head of one with a rare Byzantine inscription.

Still more unpleasant to relate, the huge numbers of antiquities amassed in official hoards have proven an irresistible temptation to all too many charged with their care and protection. Recently the former director of Egypt's Supreme Council of Antiquities department for inspecting private collections received a life sentence for taking bribes, forgery and profiteering by supplying smugglers with certificates that genuine antiquities were fakes (which can legally be exported). Many other reports of official complicity in illegal trading and smuggling (even cases of outright insider theft) can be found in the archive of Unidroit-L. The dirty secret of museums and cultural institutions is that the incidence of custodial theft and other staff misconduct is distressingly high. Many cases of this never come to light, and others are only detected after many years have passed. It is an open secret in the antiquities trade that most of those who staff museums and cultural institutions in Third

World countries are poorly paid, poorly qualified and in far too many cases, inclined to steal whatever they think they can get away with.

Finally, official hoarding of antiquities has simply created an artificial scarcity of licit provenanced artifacts, which sustains and makes possible the illicit antiquities market. There are plenty of antiquities to fill every museum to overflowing, satisfy all needs of science, and still release a large surplus of redundant unneeded artifacts as provenanced, licit collectibles. The unreasonable, uncooperative ideology of preservationists who deny provenanced artifacts to collectors and influence others to do so, is the real root cause of archaeological site looting and illicit antiquities smuggling. The day official hoarding is abandoned and a regulated licit market is established will be the day looting of archaeological sites and smuggling of artifacts ends.

By any rational standard, the policy of confiscating finds and hoarding antiquities in official and governmental custody has proven to be a disastrous failure. Stored antiquities are not properly cared for, often being destroyed by rot, corrosion or vermin before anyone even examines them. They are not properly secured, becoming targets for vandalism and theft. They are temptations which many charged with their custody cannot resist, resulting in insider theft and other corrupt behavior. The public in nations imposing such policies do not believe that any of this maladministration is really for their benefit, so they violate these repressive laws without any moral compunctions whenever they think they can get away with it.

When the United States ratified the 1970 UNESCO Convention in 1983, hearings were held bringing out the evils and futility of repressive laws in antiquities source countries. Ratification was enacted with significant reservations. The CPIA became law only after a long, difficult struggle in which all sides—museums, collectors, archaeologists, dealers, and anthropologists—advanced legitimate but conflicting positions. Congress did not attempt to choose sides but instead established a consultative process, with clear statutory guidelines, to determine when U.S. borders should be closed to cultural objects from abroad. Debate was intense because the U.S. has always favored free trade in allowing cultural objects to enter the United States. U.S. courts have repeatedly determined that the government should not deviate from free trade just because a cultural object enters this country in violation of another nation's export laws. The United States does not have any obligation to enforce export control laws of other nations.

Preservationists have now begun an intiative to reverse the principle that U.S. courts will not enforce foreign export control laws. Such a reversal would have occurred had the United States ratified the 1995 UNIDROIT convention, but unified and vigorous opposition from the entire U.S. museum, collector, and dealer community convinced the State Department to abandon that initiative. Instead, the 1970 UNESCO Convention is now being exploited in an attempt to achieve that policy reversal as an *administrative* matter under authority of the CPIA, with a goal of administratively changing U.S. law to enforce foreign export control laws, clearly exceeding the originally intended scope of the CPIA. H.R. 915 is one part of this preservationist initiative.

In considering measures such as H.R. 915, one must realize that although preservationists may have good intentions and laudable moral values, the measures they propose are not thereby guaranteed to be wise or well considered. Without going into the merits of this bill as a whole, I will present reasons why inclusion of ancient coins in the list of restricted objects would be inappropriate, unwise, and might well exceed the authority given to the President by section 304 of the Convention on Cultural Property Implementation Act (19 U.S.C. 2603). I shall further discuss the difficulties that would confront U.S. Customs in attempting to enforce such a restriction, and explain why the only conceivable approach for enforcing such a restriction would place an impossible and unjust burden on importers of ancient coins.

The CPIA was intended to deal with highly publicized instances of pillage that led to enactment of the 1970 UNESCO Convention—looting of tombs and monuments, and destruction and dismantling of archaeological sites into movable objects. The Act was designed to provide a particular remedy under U.S. import laws to bar entry of important cultural properties which were actively being looted abroad. Congress clearly did not contemplate any wholesale ban on foreign cultural goods coming into the United States.

The CPIA allows the United States to entertain requests from foreign nations to bar import of significant *specific* cultural objects which are currently being pillaged. For such a request to be found justified, there must be specific evidence of pillage of the embargoed goods. Section 2602(a)(2)(A) states that the United States can apply import restrictions "to archeological or ethnological material . . . the pillage of which is creating jeopardy to the cultural patrimony" of the requesting state. The Senate report accompanying the CPIA confirmed that the new law would authorize

the President "to apply *specific* import or other controls (upon the request of a State Party) to archaeological or ethnological materials *specifically* identified as comprising part of a state's cultural patrimony that is in danger of being pillaged."

A second essential feature of the CPIA is that the United States retains discretion to make its own decision under its laws, without accepting a foreign nation's characterization of the articles in question. Clearly, the U.S. government is not justified in imposing import restrictions on the assertion that import of particular objects would violate another nation's export control laws.

There are no grounds for believing that ancient Afghani coins are being pillaged today, or have ever been pillaged, on a scale or in a manner that jeopardizes the cultural patrimony of Afghanistan. With rare exceptions, coins really are not objects of importance to any nation's cultural patrimony. Italy certainly has as great a cultural patrimony as any nation. During their long history, the peoples of ancient Italy struck coins of unrivalled quality and variety. Italy was among the first nations to institute legal measures to protect its cultural heritage. On June 26, 2005 the Italian government recognized that nearly all ancient coins are of such minor cultural importance that Italy will no longer require that they be declared to authorities when found, or control their export. The few exceptions to this law are coins and medals of great rarity or exceptional individual cultural significance.

There is no evidence that anyone disturbs archaeological or cultural sites in Afghanistan with a view toward finding ancient coins. Tombs, temples and other monuments are very unrewarding places to prospect for ancient coins in most parts of the world, as are cities and other built up areas. Coins are sometimes found during excavations of such sites, but normally these finds are individual coins inadvertently lost or discarded, rather than intentionally concealed hoards. With rare exceptions, hoards were concealed in out of the way places such as in fields or in the woods. This can be clearly seen in the 2002 UK report of treasure finds, where only three per cent of finds were discovered in the course of archaeological excavations while ninety five per cent were discovered by detectorists.

Apart from the magnitude of this statistical difference, there is an important quality difference between coins found in excavations and hoards discovered by detectorists. Individually buried coins are rarely found in collectible condition. They may be useful for dating strata under favorable conditions where upward migration can be ruled out, but after exposure to centuries or millennia of corrosion on all surfaces, they are usually worth little or nothing to collectors.

Coins discovered by detectorists were mostly buried in large groups, and are often recovered in intact pots or other containers which protected them against corrosion. Even in cases where the container has perished, it is common to find coins fused together in a lump of corrosion products. When the corrosion products are removed by conservators, large numbers of coins from the interior of the lump are often found to be in relatively pristine condition, retaining a high value to collectors. These are the treasures, sometimes containing tens of thousands of individual coins, that motivate detectorists to prospect for coins.

Not only are there no valid grounds for classifying coins as significant *specific* cultural objects whose pillage jeopardizes the cultural patrimony of Afghanistan, there is no reasonable way to distinguish coins originating in Afghanistan from those originating elsewhere. In ancient times there was no Afghanistan, which was not unified into a single political entity until 1747. During most of antiquity, coins were issued in that part of South Central Asia by authorities whose realms extended far beyond the borders of present day Afghanistan. Most types of coins struck in what is now Afghanistan circulated over large parts of the ancient world, and likewise coins from distant lands circulated widely in these territories that later became modern Afghanistan.

I will now briefly summarize the pre-Islamic numismatic history of Afghanistan.

Before Alexander the Great conquered Persia, Afghanistan comprised parts of several Persian satrapies (provinces), Bactria and Sogdiana being the most important. The Persian Empire issued coinage only in Asia Minor, for use by its Greek subjects and for paying Greek mercenaries.

Alexander conquered Afghanistan between 330 and 327 b.c., founding Hellenic colonies populated by Greek and Macedonian veterans and their followers. During his reign and that of Philip III, some interesting coins were struck in Bactria, although these were not Macedonian imperial issues. After 305 b.c. Seleukos, the satrap of Babylon, extended his rule to the eastern provinces of the Alexandrine Empire, establishing mints at Bactra and An Khanoum. His control of much of this area was tenuous. In 303 b.c. he ceded Pakistan, the Kabul Valley and southeastern Afghanistan to Chandragupta Maurya, the Indian ruler who introduced Buddhism into Afghanistan. While these areas were under Mauryan domination, Indian punchmarked coins were used. The Eastern Hellenic realm comprised Bactria

(northern Afghanistan and part of Turkmenistan) and Sogdiana (Uzbekistan), whose most important city was Samarkand. Greek coins with royal Seleukid types were issued until in 256 b.c., the Seleukid realm lost its eastern provinces. Parthia (in Iran, west of Afghanistan) became an independent kingdom, gradually absorbing much of the old Persian Empire, while Bactria and Sogdiana became an Indo-Greek kingdom under Diodotos, who issued his own coinage modeled on Seleukid types. The Seleukid ruler Antiochos III made a last, unsuccessful effort to regain these eastern provinces in 206 b.c.

Thereafter the Indo-Greeks expanded into Pakistan and India, though pressed by Scythians and other nomads from the north. Sogdiana was soon lost, but Demetrios I regained the Kabul valley around 180 b.c. and then further expanded Indo-Greek power into the northern Indus valley. Bilingual issues with Greek obverse inscriptions and Indian (Karoshthi) reverse inscriptions were struck for Indo-Greek subjects who spoke Indic languages.

Around 130 b.c. the Yueh-Chih, a Central Asian nomad tribe, began a migration that drove their Scythian neighbors into Bactria. The Scythians conquered most of that province, Indo-Greeks retaining only its eastern part where silver mines supported what remained of their power. After the fall of Bactria, Indo-Greek Afghanistan comprised Badakshan, Tocharestan and the Kabul Valley. The kingdom shifted eastward into the northern Indus valley and Kashmir, where its capital became Pushkalavati in Gandhara (present day Pakistan). The Scythian invasion continued from Bactria down the western edge of the central Afghan massif, then eastward through the southern province of Arachosia and beyond to the Indus. There Indo-Scythian rulers battled the Indo-Greeks for a century, issuing coins with bilingual Greek/Indic legends. Scythians who settled in western Afghanistan meanwhile became tributary to the Parthian kingdom.

About 25 b.c. the Yueh-Chih expanded from Sogdiana into Bactria, taking over Indo-Greek holdings in northern Afghanistan, after which the Indo-Greek and Indo-Scythian kingdoms were cut off from their silver supply. As the Yueh-Chih took control of Bactria, Scythians in western Afghanistan (now known as Indo-Parthians) threw off Parthian dominion and marched eastward into the realm of the Indo-Scythians, issuing coinage that initially emulated Indo-Scythian types. By the beginning of the Christian era the remnants of the Indo-Greek and Indo-Scythian kingdoms had fallen to the Indo-Parthians and to the Yueh-Chih, who later became known as the Kushans. The Indo-Parthians ruled the Hellenized parts of North India and Pakistan until the Kushans also conquered these areas, after which the Indo-Parthians retreated into southern Afghanistan, controlling Sakastan and Turan before becoming tributary to Persia in 230 a.d.

At its height the Kushan Empire comprised northern Afghanistan, most of Pakistan and much of northern India. Its coinage began as a continuation of Indo-Scythian types, evolving into a distinct Indic style with Bactrian legends. Persia eventually proved too strong for the Kushans, gradually taking over the western part of their realm as the vassal kingdom of Kushanshahr, where hybrid Kushano-Sasanian coin types were issued. About 350 a.d. the dynast Kidara seized power in Peshawar, from which he was able to repel the Sasanians and take over remnants of the Kushan Empire, including parts of Afghanistan. This new kingdom soon split into four Kidarite successor regimes, of which the one centered in Peshawar endured until 460 a.d.

When Kidara revolted, the Hepthalites or White Hun subjects of Persia seized power in Bactria. The Persians had the worst of the struggle and their king Peroz was captured. The Hepthalites then conquered most of Afghanistan and the Kidarite dominion, issuing coinage emulating Sasanian prototypes. About 560 a.d. the Sasanians under Khusru I had their revenge. In alliance with the Turks, they reconquered most of Afghanistan but could not hold these gains, Bactria and eastern Afghanistan being absorbed by the Turkish khanate. After the khanate split into independent kingdoms around 600 a.d., the Persians made a temporary recovery, but the Sasanian regime disintegrated after a disastrous war with the Byzantine Empire, falling to the rising power of Islam in 651 a.d. By 700 a.d. most of Afghanistan had been absorbed into the Caliphate, although the Kabul Valley and southeastern Afghanistan still remained under Turko-Hepthalite control.

After Alexander's conquest, pre-Islamic Afghanistan was always divided between contending regimes, whose borders in most cases extended well beyond the present boundaries of Afghanistan. Our knowledge of the mints of these authorities is still very incomplete. Coins from all parts of these realms circulated within Afghanistan, among coins from other areas. An indicator of this diversity is the Qunduz hoard, catalogued by Curiel and Fussman in 1965. It includes an Alexandrine imperial coin, Seleukid types issued long after Indo-Greek independence, and large numbers of Indo-Greek coins struck in areas that later became part of Pakistan.

Pre-Islamic coin types known to have circulated within Afghanistan, which might (however improbably in the case of any individual coin) have been discovered in Afghanistan, include issues of the Alexandrine Macedonian Empire, the Seleukid Kingdom, various Indo-Greek kingdoms, Indo-Scythian and Indo-Parthian kingdoms, Sogdiana and various Central Asian polities, the Parthian Kingdom, Sasanian Persia, Kushanshahr, Indian rulers and China.

There is nothing about any individual coin in a typical shipment defining its origin, which is legally defined as the place of its discovery. That cannot be determined by examination. Many ancient coins have been in collections for long periods. The original place of discovery is very rarely recorded, usually only when a coin was part of a numismatically significant hoard.

Moreover, a coin may not have been discovered at all. There are undoubtedly a great many ancient coins that have never been buried, always having been held in treasures before ultimately finding their way into collections. Monetary use of ancient coins did not cease in ancient times. After World War I, for example, Turkey paid some of its reparations with Byzantine gold solidi that had been held for many centuries in the Ottoman imperial treasury. Roman coins circulated in some parts of Europe into the eighteenth century. No one can say what ancient coins have passed from merchant to merchant over the centuries in the souks and bazaars of Central Asia and India.

The only conceivable way to ensure that no coins originating in Afghanistan are allowed to enter the U.S. would be to require the importer to prove the provenance of each imported example of a very wide range of ancient coin types. Because such provenance information has never been recorded for nearly all ancient coins, in practice very few shipments could be allowed. Placing such an extreme burden of proof on an importer transcends all reason. Preservationists who seek to outlaw collecting might view the chaos and inequities that would ensue as a desirable result, but it would go far beyond anything Congress intended to authorize in passing the CPIA.

I urge the Committee to take a conservative approach in considering inclusion of coins in the restrictions authorized by H. R. 915. There is no evidence that inclusion of coins can accomplish anything good. There is considerable reason to think that arguments for including objects such as coins are based on false premises, following a repressive policy that has uniformly failed wherever it has been applied. There are strong grounds for concluding that inclusion of coins would exceed the authority given to the President by the CPIA. Finally, there is no reasonable way to include coins in these restrictions without imposing an impossible requirement to prove provenance, excluding very large numbers of coins which (if their provenance could somehow accurately be determined) actually originated outside the present day borders of Afghanistan.

David E. Welsh

University of North Carolina at Chapel Hill
Chapel Hill, NC 27599
24 August 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw,

I am writing to urge your support for including H.R. 915 Cultural Conservation of the Crossroads of Civilization Act ("A bill to authorize the President to take certain actions to protect archaeological or ethnological materials of Afghanistan") in the Miscellaneous Tariffs bill. This Act grants authority to the President to impose emergency import restrictions to prevent the import into the United States of antiquities and other cultural materials that have been illegally removed from Afghan cultural institutions and other locations, particularly archaeological sites in Afghanistan. This legislation is necessary because archaeological sites are now being looted on a large scale in Afghanistan. The heritage of Afghanistan has played an important role in the world's historical and cultural development. The looting of sites destroys the historical, cultural, religious and scientific information that is derived through the careful, systematic excavation of sites. When this record is destroyed we are all the poorer for it.

The looting of sites and theft from museums in Afghanistan have been significant problems for many years. As with Iraq, the United States has undertaken a special relationship with Afghanistan. Concern for preservation of the cultural heritage of Afghanistan must be given equal consideration.

Sites are looted of antiquities so that they can be sold ultimately to markets in Western Europe and the United States. It is crucial that the President be given this authority to prevent the import into the United States of looted cultural materials and thereby reduce the incentive for theft and destruction of archaeological sites. Enactment of this legislation will help the United States to fulfill its obligations to the Afghan people and help to enrich our understanding of the world's and our own cultural heritage.

As Professor of Religious Studies at a large state university (University of North Carolina at Chapel Hill), I teach students about the importance of the world's cultural heritage, which belongs to all of us. Here is a case where the U.S. can help preserve this heritage. I hope you will support this legislation.

Sincerely,

Jodi Magness, Ph.D.
Kenan Distinguished Professor for Teaching Excellence in Early Judaism
Department of Religious Studies

Statement of American Iron & Steel Institute, Cold Finished Steel Bar Institute, Committee on Pipe & Tube Imports, Metals Service Center Institute, Specialty Steel Industry of North America, Steel Manufacturers Association, United Steelworkers, and Wire Rod Producers' Coalition

The above listed trade groups and union (hereinafter referred to as the industry), on behalf of their members in the United States, submitted comments to the Department of Commerce on or about May 10, 2005 on the interim final rule for the Steel Import Monitoring and Analysis system (SIMA) issued by the Department on March 11, 2005 as 70FR 12,133 (See attached). These organizations represent companies engaged in the overwhelming majority of steel production and distribution in the U.S., as well as the trade union representing the majority of production workers.

In our comments to Commerce, the industry discussed various deficiencies and limitations of the SIMA interim final rule, and made recommendations which we asked Commerce to consider. The final rule has not been released by Commerce.

While the Commerce interim final rule has significant strengths, H.R. 1068 effectively addresses the deficiencies and limitations of that rule.

The steel industry strongly supports the passage of H.R. 1068. We also appreciate the opportunity to comment on this important bill, and your consideration of the broad need for a comprehensive and permanent steel import licensing and monitoring program.

American Wire Producers Association
Alexandria, Virginia 22314
September 2, 2005

The Honorable Clay Shaw
Chairman
Subcommittee on Trade
Committee on ways and Means
U.S. House of Representatives
1236 Longworth House Office Building
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman,

On behalf of the member companies of the American Wire Producers Association (AWPA), we want to express our support for the inclusion of HR 1068 in the miscellaneous trade bill. The AWPA is a national trade association representing over 85% of the producers of carbon, alloy, and stainless steel wire in the United States. Member companies employ more than 76,000 workers at over 255 plants in 34 states, and they have combined annual sales in excess of $18 billion.

We offer the following reasons why the proposed legislation to maintain the Steel Import Monitoring and Analysis (SIMA) program and to expand its coverage to steel wire products meets the Chairman's four criteria for inclusion in the miscellaneous trade bill:

Revenue Gains

This bill has no impact on the revenue of the U.S. Government.

Retroactive Effect

HR 1068 has no retroactive effect; it merely makes a current federal program permanent and expands it to include an important component of the U.S. steel industry.

Controversial

The domestic steel trade associations and U.S. steel producers consider wire products to be an integral part of the American steel industry. The American Iron and Steel Institute (AISI), the Steel Manufacturers Association (SMA), the Specialty Steel Industry of North America (SSINA), United States Steel Corporation, IPSCO Enterprises, and the United Steelworkers of America—among others—have urged that wire products be covered by the SIMA program. Additionally, during the OECD steel subsidy negotiations, the United States Government recognized wire products as part of the steel sector by pressing for coverage and/or monitoring of these products.

Administrative Burden

AWPA has requested that the SIMA monitoring program include the following categories of steel wire products, which are also covered by HR 1068:

1. Steel wire strand, rope, and cable (HTS 7312); Barbed wire (HTS 7313);
2. Steel wire cloth, grill, netting and fencing (HTS 7314);
3. Steel wire nails and staples (HTS 7317); and
4. Steel wire garment hangers (HTS 7326.20.0020).

The inclusion of these few additional but vital products in the SIMA program would require no modifications to the licensing or reporting forms or to the procedures or data collection established with respect to the current SIMA program. It would impose little or no additional burden on the Commerce Department's administration of the program.

We also would like to offer the following additional reasons why HR 1068 should be included in the miscellaneous trade bill.

Burden on Importers

Coverage of steel wire products will not be burdensome because the trading companies and importers which handle wire products also deal with steel products covered by SIMA. Thus, the companies are already familiar with the requirements and procedures.

International Consistency

Coverage of steel wire products will make the SIMA program consistent with the Canadian "steel import surveillance programme" which covers wire products, including steel wire rope, strand, cable, barbed wire, nails, and staples.

Early Warning

An important purpose of the SIMA program is to provide invaluable "early warning" of any changes in import trends, volumes and sources. American manufacturers of wire products would be able to react more quickly and meaningfully to such changes, and the information from the SIMA program would be extremely beneficial to U.S. wire and wire products companies which are competing in a global steel market.

For these reasons, we respectfully encourage you and the other members of the Subcommittee to include HR 1068 in the final miscellaneous trade bill.

Robert Moffitt
President

Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers
Washington, DC 20037
September 2, 2005

The Honorable E. Clay Shaw, Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1104 Longworth House Office Building
Washington, DC 20515–6354

Dear Chairman Shaw:

These comments are submitted on behalf of the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers (Committee) in support of H.R. 1068, a bill to maintain and expand the steel import licensing and monitoring program. The Committee is composed of U.S. manufacturers which together account for the vast majority of steel wire rope production in the United States.

Pursuant to Section 1(b)(2) of H.R. 1068, the steel import licensing and monitoring program would be expanded to include steel articles classified in heading 7312 of the Harmonized Tariff Schedule of the United States (HTSUS) response to notice published at 70 Fed. Reg. 12133 (March 11, 2005). This heading includes steel wire rope (subheadings 7312.10.60 and 7312.10.90, HTSUS).

Steel articles classified under heading 7312, HTSUS, are not currently included in the steel import monitoring and analysis (SIMA) system implemented by the U.S. Department of Commerce in 2004. The reason for this exclusion is that products classified under this heading of the HTSUS did not receive import relief as a result of the section 201 investigation of *Certain Steel Products.* Despite the demonstrable loss of market share to imports and the dramatic serious injury being suffered, the industry's plight was ignored, and the product was included in an arbitrary "product grouping" that included other unrelated products, most notably tire cord, that are not manufactured by the U.S. steel wire rope industry. This arbitrary product grouping resulted in aggregated data that masked the serious injury from which this industry is suffering. As a result, steel wire rope suffered the negative determination that the U.S. International Trade Commission (ITC) issued as to the arbitrary product grouping as a whole.

The U.S. steel wire rope industry strongly believes that this result was unfair and unjust. The ITC did not investigate and consider this industry's condition, and the outcome was contrary to the very reason that a comprehensive section 201 investigation was requested (specifically including steel wire rope) and conducted in the first place. Indeed, in reviewing the ITC's determinations, two facts remain inescapable:

- ***None*** *of the product groupings that received an affirmative determination from the ITC in the section 201 investigation suffers from as high an import penetration rate as does the U.S. steel wire rope industry.*
- *During the period examined by the ITC, the U.S. steel wire rope industry lost more market share to imports than eight of the product groupings that received affirmative determinations.*

Since the ITC's "section 201" investigation, the condition of this industry continued to deteriorate as a result of increasing import penetration of the U.S. steel wire rope market. Indeed, in 2004, the level of steel wire rope imports (as measured in tonnage) was the by far the highest annual total on record (115,063 net tons, which was which was 9 percent higher than the second highest annual total). Domestic shipments of steel wire rope by U.S. manufacturers in 2004 were the third lowest annual level on record: indeed, the two lowest annual levels were recorded in 2002 and 2003, which means that the three worst years for U.S. steel wire rope manufacturers as measured by the volume of domestic shipments transpired during the three years after the "section 201" investigation was completed.

As a result of the quantifiable trends outlined above, imports captured 55 percent of the U.S. steel wire rope market in 2004, which was the highest level on record. Through the first six months of this year, the import share of the U.S. market has risen to 55.7 percent.

The Committee is aware that the SIMA system created in connection with the implementation of safeguard measures covered only those imports on which restraints had been imposed. Of course, that distinction is now history, as the safeguard measures were terminated by President Bush in December 2003. In any case, the Committee respectfully submits that as a matter of national policy, if not of fundamental

justice, it is critical that the system be extended to cover imports of steel wire rope.[1] The U.S. steel wire rope industry is suffering profound injury by reason of a relentless surge in imports of the product over the past several years. Having failed to provide import relief for this critical U.S. industry because of the arbitrary "grouping" of the ITC's section 201 investigation, extension of the SIMA system to imports of steel wire rope would at least assist the industry to prepare its competitive stance on a real-time basis.[2]

Extension of the SIMA system to imports of steel wire rope is, of course, not a cure-all for the pernicious effects that imports have upon this critical U.S. manufacturing industry. Its restorative impact will not be immediate, or even apparent to most. However, it is a tool that this Government can provide this industry as it fights to stay alive. It would be a demonstration that this Government is concerned about the fate of its critical manufacturing industries.

Indeed, if the U.S. industry had this tool in the earlier time periods—for example, during the 1996–1998 span when imports increased by over 25,000 tons and the import penetration rate jumped from approximately 40 percent to nearly 50 percent as a result of the "Asian flu"—it would have been much better positioned to react expeditiously to the radical change in market conditions. Application of the SIMA system to steel wire rope imports would not have solved all the problems which the industry endured as a result of those events. However, with real-time information such as that provided by an import licensing system, the industry might have been able to stave off the most debilitating effects of the market tumult. This type of real-time information is absolutely essential if the U.S. steel wire rope industry is to meet the challenges of future import surges, whether or not they are connected to exchange rate manipulation and the predatory practices with which this industry has been repeatedly confronted in the past. Foreign suppliers will be put on notice that the U.S. steel wire rope industry will react in the marketplace, and in the Government.

For these reasons, we urge the Congress to pass, and for the President to sign into law, H.R. 1068 as a provision within the so-called "miscellaneous tariff bill," to include imports of steel wire rope as a product subject to an extended SIMA system.

Jeffrey S. Levin
Schmeltzer, Aptaker & Shepard
Harris Ellsworth & Levin
International Trade Group

Independent Steelworkers Union
Weirton, West Virginia 26062
September 2, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

The Independent Steelworkers Union ("ISU") represents over 2,000 steelworkers at the Weirton facility of Mittal Steel USA, in Weirton, West Virginia. ISU is grateful for the chance to submit comments on bills being considered for inclusion in the miscellaneous trade package. In particular, ISU is interested in H.R. 1068, "A bill to maintain and expand the steel import licensing and monitoring program," H.R.

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[1] On this point, the Committee notes that the interim final rule regarding the SIMA system published by the Department of Commerce in March 2005 encompassed certain so-called "downstream" products classified in chapter 73 of the HTSUS; therefore the Committee's support for expansion of the licensing system to cover imports of steel wire rope, as envisioned by H.R. 1068, would not undercut any existing "bright lines" regarding product coverage.

[2] The Committee notes that there are no statutory or regulatory provisions that would bar extension of the SIMA system to steel wire rope. Indeed, as an "automatic" licensing system, the SIMA system—imposing as it does minimal burden on applicants, and having no "import restricting effects"—is specifically envisioned by Article 2 of the Agreement on Import Licensing Procedures completed under the Uruguay Round of Multilateral Trade Negotiations of the General Agreement on Tariffs and Trade.

1121, "A bill to repeal section 754 of the Tariff Act of 1930," and H.R. 2473, "A bill to amend the Tariff Act of 1930 relating to determining the all-others rate in antidumping cases."

ISU supports the inclusion of H.R. 1068 in the miscellaneous trade bill and urges Congress to pass it into law. H.R. 1068 is an important bill and one that should not attract significant controversy. H.R. 1068 simply expands and makes permanent the steel import monitoring program that was established as part of the president's steel safeguard action in 2002. This successful program has enabled U.S. producers and policymakers to stay current on shifts in trade flows in the steel sector and, when necessary, to take appropriate action. Making the program permanent will help prevent future import surges like those in the late 1990s, which resulted in thousands of lost steelworker jobs. Expanding the program as proposed in H.R. 1068 would provide for complete coverage of all steel mill products, allowing for a more comprehensive analysis of steel imports. H.R. 1068, which modifies and expands a successful, existing program, is representative of the sort of bill that logically ought to be included in the miscellaneous trade package. ISU supports its inclusion and enactment.

H.R. 1121 and H.R. 2473, however, are bills that should not be included in the miscellaneous trade package. These bills, if passed, would significantly weaken U.S. trade remedy laws and are thus likely to attract a great deal of opposition. The U.S. needs strong, effective trade remedy laws to ensure a level playing field for U.S. manufacturers and workers. Given a fair market, the U.S. steel industry can compete with any foreign rivals. However, ISU is all too familiar with the effect of surges of steel imports at dumped and subsidized prices. That is why the trade laws must remain in place, to prevent and offset unfair trade and to provide a remedy for injury caused by it. The miscellaneous trade bill should not be used to chip away at these critical laws. That is why H.R. 1121 and H.R. 2473 must be excluded from the package.

H.R. 1121 would repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"). CDSOA is a program that distributes funds to certain domestic parties that have been injured by dumped and subsidized imports for eligible expenditures on plant, equipment, and people. The source of the funds for CDSOA is antidumping and countervailing duties, which are collected when dumping or subsidization continues after AD/CVD orders are imposed. Where dumping or subsidization stops after an order is issued, there are no funds to distribute. That means the AD/CVD orders are working as intended. CDSOA does not change the methodology used by Commerce to calculate dumping margins or subsidy rates and it has no effect on the amount of duty that must be paid. The program simply distributes funds to injured parties, pursuant to generally applicable criteria, when unfair trade practices do not cease. There is broad bi-partisan support among Members of Congress and the public for CDSOA, and any legislation to repeal the law would attract substantial controversy and strong opposition. In ISU's view, H.R. 1121 is not a bill that should be included in the miscellaneous trade package.

H.R. 2473 proposes to amend the antidumping law to delete the word "entirely" from subparagraphs (A) and (B) of section 735(c)(5) of the Tariff Act of 1930. This is hardly a technical amendment, however. If enacted, H.R. 2473 would severely limit Commerce's ability to effectively enforce the antidumping law. In effect, H.R. 2473 would make it nearly impossible in most cases for Commerce to calculate the dumping margin for non-investigated exporters, known as the "all-others" rate. The "all-others" rate is a weighted average of dumping margins calculated for individually investigated exporters. Under current law, dumping margins that are based entirely on "facts available" data are not included in the average. "Facts available" refers to data used by Commerce to calculate a dumping margin when a respondent company does not supply all the actual company-specific that is needed. Margins that are based only partially on facts available are used in the calculation of the "all-others" rate. In practice, this is necessary because many of the dumping margins Commerce calculates are based on at least some "facts available" data.

H.R. 2473 would prohibit Commerce from using any dumping margins in the "all-others" rate calculation that are based on any amount of "facts available" data. In most cases, this would effectively leave Commerce with no margins to use in calculating an "all-others" rate. Consequently, H.R. 2473 would create serious administrative difficulties for the Department, necessarily weakening the antidumping law. For these reasons, H.R. 2473 will almost certainly attract significant controversy and would, for practical purposes, not be administrable by Commerce.

ISU also finds it disturbing that the apparent purpose of H.R. 1121 and H.R. 2473 is to implement World Trade Organization ("WTO") panel and Appellate Body decisions that have gone against the U.S. That purpose is inconsistent with the purpose of the miscellaneous trade bill, which has historically been non-controversial legisla-

tion. Furthermore, Congress and the Administration have repeatedly criticized the overreaching of WTO panels and the Appellate Body, in these disputes in particular, and have consistently maintained that, in the decisions on CDSOA and the "all-others" rate, new obligations were created that the U.S. never agreed to. These new rules are nowhere to be found in the text of any WTO Agreement. Congress has also previously called for the Administration to resolve these disputes through negotiations at the WTO. Those negotiations are in progress as part of the Doha Round and the Administration should be allowed to work within that process to see whether, through negotiation, the problems created by panel and Appellate Body overreaching can be corrected. Consequently, it would not be appropriate to include H.R. 1121 and H.R. 2473 in the miscellaneous trade package.

ISU appreciates the Subcommittee accepting these comments and taking them into consideration during its deliberations.

Mark Glyptis
President

Trinity Industries, Inc.
Dallas, Texas 75207
September 2, 2005

The Honorable E. Clay Shaw, Jr., Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Dear Chairman Shaw:

On behalf of Trinity Industries, Inc. (Trinity), and pursuant to Advisory TR–3 (July 25, 2005), we hereby submit these comments regarding H.R. 1068, one of the bills identified in that advisory. Trinity supports this bill's proposals to (1) establish a permanent steel import licensing and monitoring system, (2) expand the coverage of the system to include all iron and steel, including heading 7307 of the Harmonized Tariff Schedule of the United States (HTSUS), and (3) release import and licensing data to the public at the tenth digit level of the HTSUS. For the reasons discussed herein, Trinity urges the Subcommittee on Trade to include H.R. 1068 in a miscellaneous trade package.

I. Trinity is a Member of the Steel Industry for which the President Created the Steel *Import Licensing and Monitoring System*

Trinity, through its wholly-owned and controlled subsidiary, Trinity Fittings Group, Inc., is a U.S. manufacturer of carbon and alloy steel butt-weld pipe fittings (BWPF). Trinity competes in the U.S. market with imported BWPF, which are classified in tariff items 7307.93.3000, 7307.93.6000, 7307.93.9030, and 7307.93.9060 of the HTSUS.

Trinity and other members of the domestic BWPF industry were active participants in the U.S. International Trade Commission's (ITC) 2001 investigation under 19 U.S.C. § 2252 regarding certain steel products.[1] In that investigation, Trinity argued, and the ITC ultimately determined, that carbon and alloy steel "fittings," a product category that included BWPF classified in 7307.93.3000, 7307.93.6000, 7307.93.9030, and 7307.93.9060, HTSUS, were "being imported into the United States in such increased quantities as to be a substantial cause of serious injury or the threat of serious injury to the domestic industry producing articles like or directly competitive with the imported articles—."[2] On March 5, 2002, pursuant to

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[1] *See, e.g., Steel (Investigation No. TA–201–73)*, USITC Pub. 3479 (December 2001) (*Steel*), Vol. III at B–64 (identifying the President of Trinity Fitting Group, Inc. as a witness at the ITC's October 1, 2001 hearing on injury) and B–103 (identifying the President of Trinity Fitting Group, Inc. as a witness at the ITC's November 8, 2001 hearing on remedy). *See also Steel: Monitoring Developments in the Domestic Industry (Investigation No. TA–204–9)*, USITC Pub. 3632 (September 2003) at B–6 (identifying the President of Trinity Fitting Group, Inc. as a witness at the ITC's July 17, 2003 hearing regarding developments in the 10 industries producing steel products corresponding to those subject to the safeguard measures since the imposition of import relief).

[2] *Steel* at 1, n.1, 14, 26.

this determination, President Bush implemented safeguard measures with respect to imports of steel products including BWPF.[3]

In connection with these safeguard measures, the President instructed the Department of Commerce and the Department of the Treasury to establish a system of import licensing and monitoring regarding the steel products covered by the safeguard measures.[4] This is the system referenced in Section 1 of H.R. 1068. Regulations implementing that system (SIMA–I) were published on December 31, 2002.[5] Effective December 5, 2003, the President terminated the safeguard measures.[6] However, in taking this action, the President specified that SIMA–I was to remain in effect—without any changes to its product coverage—"until the earlier of March 21, 2005, or such time as the Secretary of Commerce establishes a replacement program."[7]

While Trinity viewed the President's termination of the safeguard measures as premature, it was encouraged by President's decision to continue the SIMA–I system. Particularly encouraging was the President's explanation that his intention in retaining SIMA–I was to "keep the positive momentum going—so that my Administration can quickly respond to future import surges that could unfairly damage the industry."[8]

II. The Department of Commerce Has Announced its Intention to Terminate the Benefits of *the SIMA System for Trinity and Other Domestic Producers*

On March 11, 2005, after H.R. 1068 was introduced, the Department published an interim final rule that announced several important revisions to the SIMA–I system.[9] The most significant of these changes were: (1) to implement the system for an additional four years beyond its current expiration date; (2) to expand the coverage of the system "to include all basic steel mill products"; (3) to release more detailed statistics based on licensing data; and (4) to terminate licensing for, and thus eliminate the collection of import data for, "certain downstream steel products now covered, specifically, carbon and alloy flanges and pipe fittings."[10] We will refer to this modified system as "SIMA–II."

The *erim Final Rule*as Trinity's first notice that the continuation of the import licensing and monitoring system would eliminate the product grouping that is of direct interest to Trinity. The SIMA–I system had permitted Trinity to monitor trends in imports of carbon steel flanges and fittings well in advance of the statistics released by the Bureau of the Census. Consequently, Trinity argued vehemently in comments to the Department that it should specify in its final rule (scheduled to be issued by September 30, 2005) that carbon steel flanges and fittings will be maintained in the SIMA–II system. However, because it is not at all certain that the Department will reverse its *erim Final Rule*nd return Trinity's products to the steel monitoring system, Trinity is submitting these comments in support of H.R. 1068.

III. H.R. 1068 Would Restore to Trinity the Benefits that the Department of Commerce *Appears Poised to Eliminate*

The Department of Commerce has announced its intention to exclude from SIMA–II the steel products that Trinity manufactures because they are "downstream products." On the other hand, President Bush made no such distinction when he provided safeguard measures, including the SIMA–I system, to aid U.S. steel manufacturers, including producers of carbon steel fittings and flanges. Particularly as the Department of Commerce has announced its plans to extend the operation of the steel import licensing and monitoring system, as well as to depart from and expand

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[3] Proclamation 7529 of March 5, 2002; To Facilitate Positive Adjustment to Competition From Imports of Certain Steel Products, 67 Fed. Reg. 10553 (March 7, 2002).

[4] Memorandum of March 5, 2002; Action Under Section 203 of the Trade Act of 1974 Concerning Certain Steel Products, 67 Fed. Reg. 10593, 10596 (March 7, 2002).

[5] *Steel Import Licensing and Surge Monitoring,* 67 Fed. Reg. 79845 (December 31, 2002). These regulations (19 C.F.R. Part 360), and thus the SIMA–I system, became effective as of February 1, 2003. The regulations specified that the system was to include "products from excluded countries and those products subject to product-specific exclusions." Id. at 79848.

[6] *Proclamation 7741 of December 4, 2003; To Provide for the Termination of Action Taken With Regard to Imports of Certain Steel Products,* 68 Fed. Reg. 68483 (December 8, 2003).

[7] *Id.* at 68484. The Department subsequently confirmed that "[t]he duration of the licensing program is not affected by the early termination of" the safeguard measures. *Notice of Continuation of Steel Import Licensing and Surge Monitoring program,* 68 Fed. Reg. 68594 (December 9, 2003).

[8] http://www.whitehouse.gov/news/releases/2003/12/20031204-5.html (last accessed March 18, 2005).

[9] *Steel Import Monitoring and Analysis System,* 70 Fed. Reg. 12133 (March 11, 2005) *(Interim Final Rule).*

[10] *Interim Final Rule* at 12133–34.

the original scope of the monitoring system, Trinity submits that it is appropriate to further modify the system as set out in H.R. 1068. The expanded system proposed by this legislation would encompass the U.S. steel industry—an industry which the President recognized includes both "upstream" and "downstream" products. U.S. steel producers, including those like Trinity that manufacture the type of steel products classified in heading 7307, HTSUS, continue to face intense competition from imports, and would benefit from the detailed, advance information on imports provided through the system as modified by H.R. 1068.

V. *Conclusion*

Certain members of the U.S. steel industry, including, until recently, Trinity, have received valuable information through the Department of Commerce's steel import licensing and monitoring system. The President originally implemented this system in recognition of certain producers' vulnerability to future surges in import volumes. But the Department of Commerce has expanded the system to include many steel products that were not covered by the original relief measures, and at the same time decided to exclude from the benefits of the system steel products that it designated as "downstream products." To ensure that Trinity and other similarly situated domestic producers are not deprived of this valuable source of advance import data, Trinity offers its support for the inclusion of H.R. 1068 in a miscellaneous trade package.

Cheryl Ellsworth

John B. Totaro, Jr.
Counsel to Trinity Industries, Inc.

Neville Peterson, LLP
New York, New York 10004
August 30, 2005

Hon. Clay Shaw, Chairman,
House of Representatives,
Committee on Ways and Means
Subcommittee on Trade
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman,

These comments are submitted on behalf of Ergodyne, Inc., of 1410 Energy Park Drive, St. Paul Minnesota 55114, with respect to H.R. 1115, a bill which would "clarify" tariff rates for certain imported "mechanics' gloves".

For the reasons set forth below, Ergodyne submits that H.R. 1115, if enacted in its current form, would create substantial inequities in the United States market for certain types of work gloves. While the bill purports to describe certain gloves "specially designed for the use of professional auto racing teams and general automotive mechanics", it in fact describes a class of industrial protection gloves which are widely used by workers other than auto mechanics. To avoid creating an inequity in the market for these industrial protection gloves, Ergodyne submits that H.R. 1115 should be modified to cover all gloves having the design characteristics described therein, regardless of whether "designed for use by" auto racing or general automotive mechanics.

In the alternative, if H.R. 1115 is limited to gloves for professional and auto racing teams and automotive mechanics, it should be enacted as an "actual use" tariff classification provision.

Interest of Commenter

Ergodyne, Inc. is a major importer and wholesaler of a wide range of ergonomic and industrial protection products, including work gloves. These products are widely sold in the United States through industrial protection gear catalogues. Ergodyne imports and sells protective work gloves which are identical in all physical respects to the gloves described in H.R. 1115. However, the vast majority of these gloves are not sold to professional auto racing teams or to auto mechanics, but to companies employing workers who require protection from vibration, shock, and other stresses which are brought to bear on workers' hands during a variety of industrial processes.

H.R. 1115 would create a new Harmonized Tariff Schedule (HTS) subheading 6216.00.45 covering certain "Mechanics' gloves", other than knit. The bill would also

create a new Additional U.S. Note to HTS Chapter 64, which would describe the gloves covered by the new tariff provision as follows:

For the purposes of subheading 6216.00.45, the term "mechanics' gloves" means gloves especially designed for the use of professional auto racing teams and general automotive mechanics, with the following: synthetic leather palms and fingers; fourchettes of synthetic leather, nylon, or elastomeric yarn; backs comprising either one layer of knitted elastomeric fabric off heading 5407, the center layer of foam, and the inner layer of tricot of heading 5903, whether or not including a thermoplastic rubber logo or pad on the back; and elastic wrist straps with molded thermoplastic rubber hook-and-loop enclosures.

The construction described in the proposed Additional U.S. Note is a common construction for a class of well-designed work gloves. While some gloves with these characteristics are used by auto mechanics, most such gloves are used by workers other than auto mechanics, for protection in the workplace.

Ergodyne notes that there is nothing about the design and construction of these gloves which may be said to "especially design" them for the use of professional auto racing teams or auto mechanics. The gloves merely have the characteristics (durable palms and fingers, fourchettes, multilayer padded backs) typical for work gloves used by persons to protect their hands from friction stresses and other workplace hazards. While they might be used by auto mechanics, they are also more commonly used by factory and warehouse workers, machinists, carpenters, and a wide range of other industrial workers.

1. Enacting H.R. 1115 in its Present Form Will Cause Market Inequities and Present *Customs and Border Protection With Tariff Classification Problems*

Ergodyne submits that enactment of H.R. 1115 in its present form would result in significant market inequities for sellers and purchasers of work gloves. It would also engender substantial problems in the tariff classification of these types of gloves, undoing several recent Customs ruling which restored classification equity for these products.

The tariff classification of so-called "mechanics' gloves" imported and sold in the United States has generated substantial controversy in recent years.

Previously, Customs classified certain of the gloves described in H.R. 1115 as being "specially designed for use in sports", and subject to low rates of duty. This classification was not based on any physical characteristics of the gloves themselves, but rather on the representation of some United States importers and distributors (who held NASCAR and similar racing association licenses) that the gloves were suitable for use by auto racing teams or racing mechanics.[1] Firms such as Ergodyne, which imported identical gloves (often made in the same factories) for sale in the industrial protection sector of the work glove marketplace were assessed with the regular, much-higher tariff rates applicable to man-made fiber gloves. general industrial protection functions were classified as ordinary gloves, subject to higher tariff rates.[2]

This disparity in tariff classification seriously injured Ergodyne and similarly-situated firms which sell substantially identically-constructed gloves in the industrial protection market, for the vast majority of gloves imported as being "specially designed for use in sports" were in fact sold in the industrial protection market, in direct competition with Ergodyne's gloves. In fact, most of the companies whose gloves were classified under the provisions for sport gloves sold those gloves in industrial protection catalogues.

Whether the gloves in question were "specially designed for use in sports" was unclear. Furthermore, to the extent these gloves were to be classified according to use, the relevant use is the principal use of the "class or kind" of merchandise to which the gloves belonged, rather than the actual or intended use of particular gloves. In this regard, all of the subject gloves were of the same "class or kind", Ergodyne argued, and should be classified the same way.

Customs and Border Protection finally resolved the dispute, and restored equity and uniformity to the classification of these types of gloves, by revoking or modifying the previous rulings which had classified these gloves as being "specially de-

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[1] See, e.g., *New York Customs Rulings C81172 of November 17, 1997 and D83272 of October 28, 1998* (issued to Simpson Fire Suit Inc.); *New York Customs Ruling G80387 of August 28, 2000* (issued to Ringers Gloves Company); *New York Customs Ruling* B85790 of June 5, 1997 (issued to Midwest Air Technologies, Inc.); *New York Customs Ruling A86298 of August 8, 1996* (unknown importer); *Customs Headquarters Ruling 965692 of September 18, 2002* (issued to Anza Sport Group Inc. d/b/a Mechanix Wear, Inc.).

[2] See, e.g., *Customs Headquarters Ruling 965157 of May 14, 2002; New York Customs Ruling G87681 of May 14, 2002* (issued to Ergodyne, Inc.).

signed for use in sports".[3] These modifications and revocations were effected following publication of notice in the *Customs Bulletin* and the solicitation of public comment pursuant to Section 625 of the Tariff Act of 1930, *as amended* (19 U.S.C. § 1625).

H.R. 1115, in its present form, would reintroduce the inequities and the classification confusion which Customs had eliminated in 2003. To the extent that classification of gloves under proposed HTS subheading 6216.00.45 would be predicated not only on the objective design and construction attributes of the gloves, but also their special " design[] for the use of professional auto racing teams and general automotive mechanics", the bill would again appear to inject use as a criterion for classification. To the extent the intended criterion for classification is "design for use", there is nothing in the construction of the gloves described in the bill which dedicates them particularly to use by auto racing teams or general automotive mechanics, as opposed to other kinds of workers.

Furthermore, if the classification of goods as "mechanics" gloves is determined by use, the relevant use is not the use to which particular imported gloves are put, but the principal use of the "class or kind" of goods to which the imported gloves belong. Most gloves having the construction identified in the bill are not used by auto mechanics or racing teams, but in general industrial operations. If "principal use" is the relevant classification criterion, it is possible that the proposed subheading 6216.00.45 provision for "Mechanics' gloves" might never be used.

In its current form, H.R. 1115 is flawed, and would create both market inequities and difficulties in Customs administration. It should not be enacted in its current form.

2. Congress Should Enact a Duty Reduction for the Subject Gloves Based Solely Upon *Their Construction*

Ergodyne does not oppose a duty reduction for gloves if it covers *all* gloves having the construction described in H.R. 1115, regardless of intended use.

In this regard, we note that a reduction in duties for gloves of this construction would help reduce prices in the United States, and encourage more employers to purchase these types of gloves for their workers' protection. In addition, there are no known domestic producers of like or competitive gloves, so the enactment of a duty reduction would not affect any United States manufacturing or labor interests. The current high tariff applied to these gloves serves no industrial protection function, and merely places a high cost on achieving safety in the workplace.

Ergodyne believes that H.R. 1115 would be acceptable, and should be enacted, if the term "Mechanics' gloves" were defined according to the construction of the gloves alone, rather than with reference to "use" or "design for use". We recommend that H.R. 1115 be amended, so that the proposed Additional U.S. Note to Chapter 62 of the HTS would read as follows:

For the purposes of subheading 6216.00.45, the term "mechanics' gloves" means gloves having the following characteristics: synthetic leather palms and fingers; fourchettes of synthetic leather, nylon, or elastomeric yarn; backs comprising either one layer of knitted elastomeric fabric of heading 5407, the center layer of foam, and the inner layer of tricot of heading 5903, whether or not including a thermoplastic rubber logo or pad on the back; and elastic wrist straps with molded thermoplastic rubber hook-and-loop enclosures.

As revised, the duty reduction provision would cover a narrow, carefully-limited class of work gloves. While the proposed amendment might expand the scope of proposed HTS subheading 6216.00.45, it should not result in a significantly larger revenue loss.

The proposed revision would also make it simpler for Customs and Border Protection to administer the tariff provision, and would prevent classification disputes.

3. *In the Alternative, H.R. 1115 Should be Enacted as a "Actual Use" Tariff Provision*

In the event that Congress elects to enact a duty reduction measure which is limited to gloves of a certain construction used in auto racing and for general automobile mechanics, the bill should be amended so as to provide for tariff classification by "actual use". Where goods are classified by "actual use", importers are re-

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[3] See *Customs Headquarters Ruling 966647 of September 10, 2003* (revoking rulings previously issued to Simpson Fire Suit Inc.); *Customs Headquarters Ruling 966648 of September 10, 2003* (revoking ruling issued to Ringers Gloves Company); *Customs Headquarters Ruling 966432 of September 10, 2003* (revoking ruling issued to Midwest Air Technologies); *Customs Headquarters Ruling 966431 of September 10, 2003* (revoking ruling issued to unidentified importer); *Customs Headquarters Ruling 966248 of September 10, 2003* (revoking ruling issued to Anza Sport Group Inc. d/b/a Mechanix Wear, Inc.)

quired to provide Customs with evidence, within three years after importation, that the goods were actually used for the purposes stated in the tariff item, and are entitled to the lower rates of duty specified therein.

Limiting the bill in this way would prevent the re-emergence of competitive inequities in the United States market for industrial protection work gloves. As noted *supra,* these inequities plagued suppliers of such work gloves, such as Ergodyne, until Customs finally harmonized and made uniform the classification of these gloves in 2003.

Conclusion

Ergodyne's primary concern is to ensure that the enactment of H.R. 1115 does not recreate a competitive imbalance in the United States market for industrial protection work gloves. To that end, while Ergodyne believes that the bill is flawed in its current form, the company would support the enactment of a bill which defines the term "mechanics' gloves" by construction rather than use, and reduces tariffs for all such gloves. Ergodyne believes that such a reduction would greatly benefit the safety and health of United States workers, by making protective gloves more affordable to them and their employers.

In the alternative, if the measure is to limited to imported gloves for professional racing teams and auto mechanics, the bill should provide for classification of such goods by actual use, in order to avoid re-introducing market inequities and creating difficulties in the administration of this tariff provision.

Ergodyne stands ready to furnish any additional information or assistance which the Subcommittee may require regarding this measure.

John M. Peterson
Counsel to Ergodyne, Inc.

A.C. Houston Lumber Co.
North Las Vegas, Nevada 89081
August 30, 2005

Dear Congressman Shaw:

I am writing in support of H.R. 1121, and a repeal of this "Byrd Amendment."

My company produces structural building components—metal-plate connected wood trusses, wall panels, and open-web floor joists—that are made primarily of softwood lumber and light gauge, galvanized steel connector plates. Our products are used mainly in residential homes across the country, as well as multi-family dwellings and light-commercial and agricultural buildings. We have locations in California, Nevada, New Mexico Colorado, and Idaho. Our annual sales are $220 million and we employ over 900 people, with some of our employees in California belonging to labor unions.

According to the International Trade Commission (ITC), 36% of the softwood lumber used in the U.S. comes from Canada. Based on our industry financial performance statistics, combined with a study done by the ITC, the structural building component industry's annual steel purchases are approximately 475,000 tons of steel in truss plates and an additional 130,000 tons in connectors.

Hence, the protectionist trade remedies encouraged and exacerbated through the Byrd Amendment directly harm my company's competitiveness and profitability. Please allow me to offer the following observations:

Byrd Creates Perverse Incentive:

The Byrd Amendment is bad policy because it essentially creates a double benefit for targeted companies: first, through an increase in prices due to a tariff-induced reduced supply; and second, through the distribution of tariff dollars to the petitioning companies that already gain the benefit from the increase in prices.

Consequently, the Byrd Amendment has simply encouraged additional U.S. companies to file more protectionist trade suits to reap the benefits of a direct payment from their marketplace competitors.

Byrd Encourages Protectionist Trade:

According to the World Trade Organization, as recently as 1997 only 15 antidumping cases were filed in the U.S., and only nine in the entire first half of 2000. However, since the Byrd Amendment took effect, the numbers have climbed to 76 in 2001, 35 in 2002, and 37 in 2003.

Forty-four U.S. companies have each collected at least $1 million through the Byrd Amendment in 2004, and total assessed duties were over $284.1 million. From

2001 through 2004, U.S. Companies have benefited from more than $1.04 billion through this protectionist trade law.

Byrd Makes My Problems Worse:

First, as stated earlier, the Byrd Amendment encourages the filing of CVD/AD trade remedy cases. These trade tariffs artificially raise the cost of my raw materials, like softwood lumber and steel, which leads to unnecessary uncertainty or restriction of supply.

Second, the Byrd Amendment makes it possible for nearly $4 billion in CVD/AD duties collected on the importation of Canadian softwood lumber to be distributed to U.S. petitioning companies. However, U.S. petitioning companies account for only 54 percent of U.S. softwood lumber production. This provides an unfair competitive advantage to these petitioning companies.

Third, the possibility of distribution created by the Byrd Amendment of this nearly $4 billion in CVD/AD duties makes a negotiated settlement of the softwood lumber dispute between the U.S. and Canada nearly impossible.

Byrd Unfair, Passed Unfairly:

The Byrd Amendment was passed as an add-on to a last minute appropriations bill, without consideration by the appropriate committees of Congress/

The Byrd Amendment creates harm to consuming industries like mine, and yet I have no ability to participate meaningfully in the trade cases the Byrd Amendment encourages. Repeal of the Byrd Amendment is an essential step in allowing consuming industries an opportunity to protect our trade interests.

Byrd Harms International Trade:

The WTO ruled the Byrd Amendment illegal two years ago, and in November 2004 it gave formal approval for Canada, Japan, the EU, and four other jurisdictions to retaliate against the U.S. for refusing to amend or rescind the Byrd Amendment.

In March 2005, the Canadian government announced it would impose a punitive 15 percent duty, equaling $11.6 million annually, on targeted goods including oysters, live swine, specialty fish, and cigarettes imported from the U.S. The EU announced similar punitive tariffs as well on paper, agricultural, textile and machinery products imported from the U.S.

Thank you for allowing me to provide my comments on H.R. 1121, please feel free to contact me if you have any questions or need for further information.

Michael M. Murray
Vice President

Accent Furniture
Maryland Heights, Missouri 63043
August 31, 2005

Ways And Means Committee
Subcommittee On Trade

Dear Subcommittee members:

I am writing to you regarding the Byrd Amendment and ask that the Trade Subcommittee consider the needs of distributors and retailers who import products, our associates, and our customers. The Byrd Amendment was passed without consideration by the appropriate committees of Congress and has done unforeseen injury to American companies.

My companies, which are: The Bedroom Store, Accent Furniture, and Boyd Specialty Sleep, employ 200 people across the U.S. (100 in the St. Louis area.) I began the company in 1977 and locally my 7 stores have grown to be the largest supplier of bedroom products to consumers in the St. Louis area and a major distributor to over 3000 stores like The Bedroom Store across the country.

Since June 18, 2004, when anti-dumping duties on bedroom furniture were announced, my bedroom furniture sales have been down in excess of 30% versus the prior year. The anti-dumping duties have limited my customers previously open access to quality, affordable bedroom furniture and have required me to spend thousands of dollars finding and qualifying new sources of furniture.

I support repeal of the Byrd Amendment because:

- The Byrd Amendment provides a double hit on American manufacturers who use products subject to antidumping and countervailing duties. American com-

panies are the ones that pay these duties, and because of the Byrd Amendment, they have these duty payments transferred to their U.S. competitors. Therefore, part of an industry is taxed to subsidize another part of that industry.

- The Byrd Amendment is a blatant subsidy to a very few companies that, far from assisting American manufacturing, actually undermines it. Most American manufacturers do not benefit from the Byrd Amendment. More than half the Byrd Amendment payments in 2004 went to only *nine* companies, and more than 80 percent of the payments went to only *44* companies.
- The Byrd Amendment does not restrict the recipients' use of Byrd Amendment money.
- Allocation of Byrd Amendment money is based on "qualified expenditures," which are not monitored or audited by Customs or any government agency.
- The Byrd Amendment annually funnels money collected from the imposition of anti-dumping duties from government coffers to companies that petition for those duties. Such funneling has totaled more than $1 billion to date, with billions more waiting in the wings.
- U.S. producers are encouraged to file trade actions knowing full well that they will be eligible for Byrd money. U.S. companies in line to receive these payments have a clear incentive to include more products within the scope of anti-dumping cases, including products not even made in the U.S. Because the duties on the imported products are funneled to the petitioning companies, the Byrd Amendment creates a disincentive to produce the product subject to the duty in the U.S.
- We rely on open trade for our export sales and our purchase of inputs. The Byrd Amendment makes importing raw materials more difficult and risky, increasing our costs and uncertainty.
- This law was passed without consideration by the appropriate committees of Congress and has done unforeseen injury to American companies.
- The antidumping and countervailing duty laws are more arbitrary, the duties are higher and orders are harder to revoke or change as a result of the Byrd Amendment.
- This harms consuming industries, but they have no ability to participate meaningfully in these cases. Repeal of the Byrd Amendment is an essential step in allowing consuming industries an opportunity to protect their interests as a matter of fundamental fairness.
- We export products that are actually or potentially subject to retaliation: our major trading partners will take action against U.S. exports as a result of the failure of Congress to repeal this WTO-illegal measure.

Please feel free to contact me directly if you would like any additional input on how the Byrd Amendment has harmed my company and customers. Thank you for your consideration.

Sincerely,

Dennis Boyd
President

AK Steel Corporation
Middletown, Ohio 45043
August 30, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

We note your advisory dated July 25, 2005 requesting written comment on technical corrections to U.S. trade laws and Miscellaneous Duty Suspension bills. Among the bills listed in the release is H.R. 1121, a bill to repeal Section 754 of the Tariff Act of 1930, the Continued Dumping and Subsidy Offset Act (CDSOA) of 2000, and the related measure, H.R. 2473. AK Steel strongly opposes both of these measures. We believe the consideration of these measures at this time would seriously undermine the direction of U.S. trade policy as established by the Administration and by Congress itself.

Headquartered in Middletown, Ohio, AK Steel produces flat-rolled carbon, stainless and electrical steel products, as well as carbon and stainless tubular steel products for automotive, appliance, construction, and manufacturing markets. We have manufacturing facilities in Pennsylvania, Indiana, and Kentucky which employ a total of about 8,000 men and women. In March of this year we were named one of America's "most admired companies" in a survey conducted by Fortune magazine that rated companies on eight criteria, including quality of management, innovation, and quality of products and services.

The antidumping and subsidies laws were negotiated, written and endorsed by the world's trading nations over 50 years ago. They are well-recognized, well-established remedies for unfair trade that are only available when a domestic industry conclusively proves that it has been injured by clearly demonstrated dumping.

We firmly believe that the Continued Dumping and Subsidy Offset Act has been and continues to be an appropriate, effective, and legal response when foreign competitors engage in dumping or benefit from unfair subsidies. We strongly support the value of this measure that has been an effective tool in preserving the manufacturing base of this country in critical industries, and preventing the elimination of U.S. jobs.

We particularly oppose any legislative activity to repeal the CDSOA at this time. Congress itself recognized that the appropriate forum for determining the future of CDSOA payments is in international trade discussions. In January 2004, Congress, in the Consolidated Appropriations Act, directed the Administration to conduct negotiations within the World Trade Organization on the question of the rights of WTO members to distribute monies collected from antidumping and countervailing duties." The Administration has, in the current Doha Round, proposed that the relevant WTO agreements be revised to clarify that anti-dumping and countervailing duty payments may be distributed as the member country deems appropriate.

Repeal of the Continued Dumping and Subsidy Offset Act would be detrimental to the critical manufacturing sector of the economy, and would undermine internationally recognized principles of trade policy. Given Congress's statement in the 2004 appropriations measure, and the on-going consideration of these issues through the WTO, it would be particularly ill-advised to consider repeal of the legislation at this time. For these reasons, we strongly urge the committee to delete H.R. 1121, and the related measure, H.R. 2473, from the list of measures to be considered by the committee at this time.

Thank you for considering these comments.

Sincerely,

James L. Wainscott
President and CEO

Alcoa
Washington, DC 20006
August 30, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

Alcoa Inc., headquartered in Pittsburgh, Pennsylvania and operating in over 400 locations in 43 countries, supports H.R. 1121, legislation to repeal the "Continued Dumping and Subsidy Offset Act" (CDSOA), commonly known as the Byrd Amendment. Alcoa also supports the inclusion of H.R. 1121 in the miscellaneous trade bill.

Alcoa is the world's largest aluminum producer. Aluminum is in turn one of the most versatile products made in the modern world; it is a key commodity and its alloys are used in production of industrial products, aircraft, missiles and other defense apparatus, automobiles and auto parts, as well as numerous products used in and around homes and offices.

Alcoa is a proponent of a fair U.S. trade policy—first and foremost, this must be based on adherence to international rules governing the regulation of trade. The Byrd Amendment violates these rules and the U.S. is clearly obligated to bring its laws into conformity with the requirements we agreed to with our trading partners.

However, this is not the only reason for repealing the Byrd Amendment. It has also generated unintended adverse consequences for American industry, including Alcoa.

The Byrd Amendment provides a "double hit" on importers and consumers of products subject to antidumping and countervailing duties. That is, duties are collected by the government and then paid over to U.S. companies, including competitors of foreign producers and U.S. companies that did not support petitions when they were brought. It encourages U.S. producers to file cases they might not otherwise support, and to include

additional products within those cases to maximize payments, even if the producers do not even make all the products subject to the cases. The Amendment also encourages antidumping and countervailing duty orders to be continued after the five-year "sunset" review period.

In addition, the Byrd Amendment provides money for recipients with no strings attached. There is no indication that these funds have strengthened the companies that receive them in their international competitiveness. Without this assurance, the receipt of Byrd Amendment money may serve no public purpose. Moreover, the payment process is not effectively audited. More than $1 billion has been paid to date.

It also appears that the Byrd Amendment has fomented destructive trade disputes with close allies like Canada.

Finally, of course, repeal of the Byrd Amendment is required by international trade rules. As a global company, Alcoa sees the importance of trade liberalizing agreements. U.S. leadership on trade issues is not possible without the adhering to the fundamental rules of trade, including complying with WTO decisions.

Repeal of the Byrd Amendment is an essential step in allowing consuming industries an opportunity to protect their interests and is a matter of fundamental fairness.

Russell C. Wisor
Vice President, Government Affairs

Statement of Jon D. Walton, Allegheny Technologies Incorporated, Pittsburgh, Pennsylvania

Allegheny Technologies Incorporated ("ATI") submits these comments in strong opposition to H.R. 1121 in the Miscellaneous Tariff Bill ("MTB"), a bill to repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA" or "the Byrd Amendment"), and in opposition to H.R. 2473 (also contained in the MTB), which alters the calculation of the "all others" rate in the antidumping and countervailing duty cases and would significantly reduce the amount of duties collected and distributed under CDSOA. We believe that continuation of the Byrd Amendment in its current form is essential to preserving the remedial effect of the U.S. antidumping and countervailing duty laws.

ATI is one of the largest and most diversified specialty materials producers in the world with revenues of approximately $2.7 billion in 2004. ATI has approximately 9,000 full-time employees world-wide who use innovative technologies to offer growing global markets a wide range of specialty materials solutions. ATI's products include nickel-based alloys and superalloys, titanium and titanium alloys, stainless and specialty steels, zirconium, hafnium, and niobium, tungsten materials, silicon and tool steels, and forgings and castings.

ATI Allegheny Ludlum, an Allegheny Technologies company, is a world leader in the production and marketing of sheet, plate, and strip specialty materials including stainless steel, nickel-based alloys, titanium, and titanium-based alloys. The company also produces grain-oriented silicon electrical steel products, and tool steel plate. Allegheny Ludlum has approximately 3,700 full-time employees principally located in the United States.

Allegheny Ludlum has received CDSOA disbursements since the inception of the program in 2001. In 2004, Allegheny Ludlum received CDSOA disbursements of approximately $2.5 million. These disbursements have had a positive effect on Allegheny Ludlum's net income, investment in property, plant and equipment, research and development and employment, which, in turn, have had a positive effect on the company's ability to compete.

We understand that H.R. 1121 is intended to conform U.S. law to the January 16, 2003 decision of the WTO Appellate Body which found the CDSOA to be a non-permissible "specific action against" dumping or subsidization. We believe that the

Appellate Body's ruling is erroneous. Nothing in the WTO agreements addresses the ways that WTO members may use antidumping and countervailing duties once they have been paid.

The CDSOA does not impose sanctions against dumping or subsidization any greater than those permitted under the WTO agreements; the Byrd Amendment did not raise the amount of antidumping and countervailing duties permissible under U.S. law and the WTO agreements. It simply applies the duties collected in a manner designed to remedy the ongoing injury caused by the continuation of unfair trade practices.

ATI expects that Congress will actively support manufacturing jobs in the United States by opposing repeal of CDSOA and by supporting the U.S. government's sovereign right to distribute taxes as determined by Congress. We note that Congress has called for our trade negotiators in the ongoing Doha Round to push for revision of the WTO agreements so that CDSOA and similar programs relating to the use by individual countries of the antidumping and countervailing duties they collect will be expressly accepted as consistent with WTO. We believe that this approach would improve the effectiveness throughout the world of long-accepted disciplines aimed at discouraging dumping and subsidization of exports. The United States and the world trading system would be better for it.

For these reasons, Allegheny Technologies Incorporated respectfully urges the Committee to report H.R. 1121 and H.R. 2473 unfavorably.

Alperts, Inc.
Seekonk, MA 02771
August 26, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

On behalf of Alperts, Inc., I would like to thank you for the opportunity to comment on H.R. 1121, legislation to repeal the "Continued Dumping and Subsidy Offset Act" (CDSOA), commonly known as the Byrd Amendment. Our company strongly supports this legislation's inclusion in the miscellaneous trade bill. Headquartered in Seekonk, MA, Alperts has 165 employees with 2005 sales in excess of $42 million.

In 2003 a group of domestic furniture manufacturers worked to restrict consumer access to affordable high quality wooden bedroom furniture by filing an anti-dumping petition against furniture from China with the Commerce Department and the International Trade Commission. We believe that these petitioners were primarily motivated by the prospects of Byrd Amendment funds.

Now that Commerce and the ITC approved the duties on Chinese wooden bedroom furniture, Alperts not only must pay the duties but also see the monies in the future transferred to selected domestic manufacturers that we compete directly against! Dumping duties by their nature are supposed to increase the costs of goods, thereby making "unfair" imports "fair." Transferring the duties back to the U.S. producers causes a double benefit to those companies who filed the petition. Not only do they raise the price of goods to U.S. consumers, but the U.S. producers then collect huge payments from the government, with no requirements that they do anything with this money.

The Byrd Amendment actually helps very few companies. More than half of the Byrd Amendment payments in 2004 went to nine companies, and about 80 percent to only *44* companies nationwide.

Again, the furniture manufacturers who filed the trade petition will not be required to use the Byrd money they receive for job retraining or to improve their competitiveness. Instead, these companies can sit back and receive a government handout on every wood bedroom product imported into this country from China, and it goes right into their bottom-line. Bombay's millions of customers across America depend on having access to quality furniture for their homes at a reasonable price. We ask that the Trade Subcommittee consider the needs of retailers who import products, our employees, and our customers. The Byrd Amendment was passed

without consideration by the appropriate committees of Congress and has done unforeseen injury to American companies.

As a matter of fundamental fairness, we ask that you include H.R. 1121 in the miscellaneous trade bill and once again applaud you for your leadership on this important issue.

Sincerely,

Hershel L. Alpert
President

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman
Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20215

Dear Chairman Shaw:

On behalf of the American Apparel and Footwear Association—the national trade association of the apparel and footwear industries, and their suppliers—I am writing to express strong support for the following bills identified in the subject advisory.

HR 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements.

Comment: AAFA strongly supports this legislation and believes it is long overdue. The Committee for the Implementation of Textile Agreements (CITA) is responsible for far reaching decisions that deeply affect most AAFA members yet its actions are almost always taken behind closed doors with insufficient public scrutiny. This lack of transparency creates a highly unpredictable environment that is often perceived as being unfair. Recently, CITA has published guidelines to introduce some predictability into its deliberations. While we applaud those limited moves as a step in the right direction, we believe they are insufficient to provide the full accountability necessary for an intergovernmental agency which such responsibilities. Moreover, CITA has at times disregarded its own published guidelines as it has implemented China safeguard and short supply procedures. As a result, AAFA supports bringing CITA under the full jurisdiction of the Administrative Procedures Act.

HR 1121—A bill to repeal section 754 of the Tariff Act of 1930.

Comment: AAFA strongly supports the repeal of the Byrd Amendment. The Byrd legislation was enacted outside of the regular legislative process, by committees that do not enjoy primary jurisdiction over trade issues, and with no opportunity for public comment. Moreover, as has been found by the World Trade Organization (WTO), this provision puts the United States out of compliance with its WTO obligations. In fact, the European Union is currently assessing penalties on U.S. produced clothing in retaliation. Other countries have threatened to do the same. AAFA believes repeal of this abominable provision should be made a priority.

HR 1221, HR 3386, HR 3387, HR 3388, HR 3389, HR 3391, HR 3392, HR 3393, HR 3394, HR 3395, HR 3483, HR 3484, HR 3485, HR 3486, HR 3487, HR 3488, HR 3489, HR 3490, HR 3491—Duty suspensions with respect to various footwear articles. [Note: This does not include HR 3390, which we understand has been withdrawn.]

Comment: AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

HR 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.

Comment: AAFA strongly supports this legislation. Our association supported an earlier version of this legislation in the 108th Congress. This legislation would result in duty reductions for cotton fabrics that are already designated in short supply under various trade preference programs because these fabrics are unavailable in the United States and in the preference countries. Given that finished shirts may

enter duty free using these fabrics, we believe it is also appropriate to permit the fabrics themselves to enter duty free. Thus, U.S. domestic manufacturers of shirts will be able to enjoy equal access to those same high quality fabrics that foreign based manufacturers enjoy.

HR 2589/HR 2590—Two bills to extend the temporary suspension of duty on certain filament yarns

Comment: AAFA strongly supports these provisions. AAFA was involved in the development of the original legislation and understand that the conditions that led to successful passage of the original legislation, including the fact that the yarns in question are not produced domestically, continue to exist. Thus, these provisions should be extended.

HR 1230—A bill to extend trade benefits to certain tents imported into the United States.

Comments: AAFA strongly supports this provision. This legislation relates to certain camping tents which are not made in the United States. Moreover, similar but slightly smaller tents, differentiated only by the fact that they are classified as "backpacking" tents, already enjoy duty free treatment. This provision would correct that anomaly.

In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment of such provisions may also facilitate proper findings of short supply for those programs, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

[By permission of the Chairman:]

American Chamber of Commerce in Germany
Berlin, Germany
September 2, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw,

The American Chamber of Commerce in Germany (AmCham Germany) welcomes the opportunity to comment on, and supports the inclusion into a miscellaneous trade legislation of the bill H.R. 1121 repealing Section 754 of the Tariff Act of 1930.

Section 754 was enacted by the Continued Dumping and Subsidy Offset Act of 2000 (CDSOA or "Byrd Amendment"). This act is at the heart of a major dispute in the World Trade Organisation (WTO) opposing the United States and its main trading partners, including Germany. Its repeal would remove a serious trade irritant that prejudices the United States' trade relations and its credibility as a reliable partner in the WTO.

The CDSOA is a breach of the letter and spirit of the WTO rules

The enactment of the CDSOA raised immediate and widespread concerns not only in the European Union but in the whole WTO membership. 11 members (Australia, Brazil, Canada, Chile, the EU, India, Indonesia, Japan, Korea, Mexico and Thailand) brought a complaint under the dispute settlement proceeding and were supported by 5 other members (Argentina, Costa Rica, Hong Kong (China), Israel, Norway). It was the first time in the history of the Organisation that so many members joined forces to challenge a measure taken by another member.

There was no doubt that the CDSOA was contrary to the basic obligation to limit action against dumping or subsidisation to the remedies specifically available under the anti-dumping and anti-subsidy agreements (i.e. duties on imports of the dumped or subsidised goods, undertakings on minimum import prices or, in the case of a subsidy, multilaterally sanctioned countermeasures). The CDSOA distributes the collected anti-dumping and anti-subsidy duties to the companies that brought or supported those trade remedy cases. Thereby, the CDSOA imposes a second hit on dumped or subsidised products: domestic producers are, first, protected by anti-dumping and anti-subsidy duties and, second they receive subsidies paid from these duties at the expense of their competitors. This overcompensates the dumping or subsidisation and upsets the fair competition previously restored by the imposition of duties to the detriment of exporters, U.S. importers, U.S. consuming industries and U.S. producers that are not eligible to the CDSOA payments. The Dispute Settlement Body of the WTO fully confirmed this legal assessment in a widely expected decision in January 2003.

The limitation of the remedies available against dumping or subsidisation is a cornerstone obligation of the WTO and must remain

AmCham Germany is aware of requests to negotiate rules in the WTO that would "legalize" the CDSOA and wishes to express its opposition to such negotiations.

Such a change of the WTO rule-book would be fundamentally misguided and against the interests of all WTO members including of the United States. The limitation of the remedies available is one of the obligations that maintain the delicate balance between trade liberalisation and a legitimate protection of national industries against unfair competition.

The inevitable consequence of authorizing multilaterally the disbursement of the anti-dumping and anti-subsidy duties to subsidize the national competitors of the exporters would be a proliferation of anti-dumping and anti-subsidy duty actions, which would have a major negative impact on world trade, including on U.S. exports.

AmCham Germany wishes to draw the attention of the Committee to statistics published by the WTO on the anti-dumping activity over the last 10 years (1995–2004).[1] They show that the United States has been over that period the third most targeted WTO member in terms of initiation of anti-dumping investigations and the fourth most targeted member in terms of anti-dumping measures imposed. A legalization of a redistribution mechanism such as the CDSOA would therefore not be in the interest of the U.S. producers as they would be hit next in their export markets.

The repeal of the CDSOA does not affect the ability of the United States to protect its industry from unfair competition

The CDSOA is an "added piece" to the United States' system of protection against dumping or subsidisation. Repealing it would leave this system unaffected and would therefore not affect the United States' ability to provide to its companies and workers a legitimate protection against unfair competition. The imposition of anti-dumping and anti-subsidy duties (or other remedies specifically authorised by the relevant WTO agreements) ensures the required protection.

The CDSOA was also presented as the adequate way to respond to continued dumping and subsidisation which prevents market prices from returning to fair levels and frustrates the remedial purpose of the anti-dumping and anti-subsidy duties. It may happen that dumping or subsidisation increases over time and that the duty initially imposed becomes insufficient to neutralise it but other adequate legal recourses are and will continue to be available. Thus, WTO rules allow for the review of the level of the duty and the retroactive application of the revised duty rate, thereby cancelling out any unfair competitive advantage that could result from increasing the level of dumping or subsidisation.

These rules are implemented in U.S. legislation by Section 751(a) of the Tariff Act of 1930 which allows United States' companies to require every year a review of the duty, which result will be applied retroactively.

Ignoring the DSB ruling and recommendation fundamentally affects the United States' interests

The United States had 11 months (until 27 December 2003) to bring its legislation into conformity with the WTO rules, but the deadline expired without any concrete signs of forthcoming compliance with the WTO ruling. The European Union subse-

[1] Available on the WTO website at: http://www.wto.org/english/tratop_e/adp_e/adp_e.htm.

quently requested the authorisation to retaliate against the United States. Brazil, Canada, Chile, India, Japan, Korea and Mexico acted likewise.

The European Union started the application of retaliatory measures on 1 May 2005 in the form of a 15% additional import duty on a range of U.S. products including paper and textile products, machinery and sweet corn. In accordance with the arbitration award, the level of retaliation will be revised annually and new products may then become subject to retaliation. Canada has also applied a 15% additional import duty on live swine, tobacco, oysters, specialty fish originating in the United States since 1 May 2005. Japan recently announced that it would apply a 15% additional duty on certain U.S. products as from 1 September 2005 and Mexico has just published a decree applying retaliatory measures on certain U.S. products as from 18 August. The other complainants are taking preparatory steps to exercise their retaliation rights in the WTO. Domestic requirements impose different calendars, but all may apply retaliation at any time they deem appropriate as all required steps in the WTO have now been completed.

Again, this is the first time in the history of the WTO that so many members are authorised to impose retaliatory measures. More tellingly, these eight members represent the major trading partners of the United States with 71% of total U.S. exports and 64% of total U.S. imports.

By contrast, the legislation at the root of this dispute only benefits a handful of companies. Two companies have received more than one third of the money distributed so far (i.e. more than U.S. $ 366 million out of the roughly U.S. $ 1 billion disbursed in the first four distributions) and every year half of the payments went to a very limited number of companies (4 in 2001, 3 in 2002, 2 in 2003 and 9 in 2004).

As a Congressional Budget Office (CBO) economic analysis[2] shows, the CDSOA creates incentives to U.S.-producers to file complaints in order to receive CDSOA payments. It also results in inefficiencies in production, makes retaliation by trading partners more likely, discourages the settlement of cases, and leads to increased transaction costs. Hence, the "Byrd Amendment" is detrimental to the overall economic welfare of the United States.

On a systemic point of view, the dispute settlement system is a fundamental pillar of the WTO. It provides security and predictability to the multilateral trading system. Its credibility depends on its strict observance by the members. The failure of the United States, one of the world's leading trading nations, to comply fully in timely manner with its WTO obligations is damaging to the credibility and effective functioning of the rule-based trading system. Undermining WTO disciplines harms the interests of all members, including those of the United States.

AmCham Germany continuously strives to promote the further liberalization of trade and therefore supports the dispute settlement process of and decisions made by the WTO. In order to strengthen the transatlantic relationship, AmCham Germany encourages both the U.S. and EU to jointly work on solving this dispute in a manner, that does not harm businesses on either side of the Atlantic.

Our members, both American and German companies, strongly rely on open trade for their business. Therefore, the Byrd Amendment constitutes harm for our membership base. Not only is it detrimental to multinational, transatlantic business, but also—first and foremost—to U.S. business interests: American business relies upon the multilateral trading system in the context of the WTO and a global exchange of goods without countervailing duties. Further, resulting from the lack of fair competition, American consumers are burdened with higher prices.

Thus, AmCham Germany trusts that the Committee will appreciate the utmost importance for the United States to abide by its WTO obligations and repeal the CDSOA without further delay.

Thank you for considering our comments.

Sincerely,

Dr. Dierk Müller
General Manager

American Chamber of Commerce in Germany e.V.

The American Chamber of Commerce in Germany (AmCham) is a private, nonprofit organization. With over 3,000 members, it is the largest bilateral economic organization in Europe and represents the largest group of foreign investors in Germany. AmCham Germany's goals include strengthening German-American economic

[2] Available on the CBO website at http://www.cbo.gov/ftpdocs/51xx/doc5130/03-02-ThomasLetter.pdf.

relations and promoting Germany as an investment location. The chamber also serves as a link to investors in the United States.

Statement of The American Iron and Steel Institute

In response to the request for written comments with respect to technical corrections to U.S. trade laws and miscellaneous duty suspension proposals,[1] the American Iron and Steel Institute ("AISI") is pleased to provide the following comments regarding several of the bills listed in the Subcommittee's advisory (and proposed for inclusion in a miscellaneous trade package). As described below, these proposals are highly controversial, raise a number of substantive concerns and are *not* suitable for inclusion in a miscellaneous tariff bill.

H.R. 1121 (Repeal of "Byrd Amendment")

One of the measures listed in the Subcommittee's advisory for potential inclusion in the miscellaneous tariff bill is H.R. 1121, which would repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"), often referred to as the "Byrd Amendment" (providing for the distribution of unfair trade duties to companies and workers injured by unfair foreign practices). H.R. 1121 is not only highly controversial, but is unnecessary given that Congress has clearly expressed the view that the ongoing dispute relating to the Byrd Amendment should be resolved in international negotiations. Inclusion of this measure in the miscellaneous tariff package would clearly give rise to substantial opposition to the overall bill, and is certainly not appropriate given the historic practice of limiting this bill to non-controversial items. Several points are important in this regard.

First, the proposal to repeal the Byrd Amendment is apparently intended to implement the WTO Appellate Body's decision in *United States—Continued Dumping and Subsidy Offset Act of 2000*. The WTO decision in this case, however, has been roundly criticized, including by the Bush Administration, as an example of judicial overreaching and the creation of obligations not found in the applicable WTO agreements. While the WTO Appellate Body ruled that lawfully collected antidumping and countervailing duties may not be distributed to injured domestic producers, the fact is that the negotiators of the relevant WTO agreements never even considered, much less undertook, any restrictions on how WTO Members may spend lawfully collected duties. In finding otherwise, the Appellate Body simply invented obligations that were not agreed to by U.S. negotiators or approved by Congress.

Second, as Congress has recognized, this matter can and should be resolved through another, more appropriate avenue—the ongoing Doha Round of WTO negotiations. In this regard, the WTO's ruling in the Byrd case prompted 70 Senators to send a letter to President Bush in February 2003 urging him to seek, through trade negotiations, express recognition of the existing right of WTO Members to distribute monies lawfully collected from antidumping and countervailing duties as they saw fit. Moreover, Congress included in its Fiscal Year 2004 omnibus appropriations bill a provision directing the Bush Administration to immediately initiate WTO negotiations to recognize this right. The Bush Administration has now put this issue on the table of the Doha Round negotiations. This effort at a negotiated fix for the Appellate Body's decision should be given an opportunity to succeed—rather than rushing to repeal a critical U.S. law in the face of a flawed WTO dispute settlement decision.

The Byrd Amendment has served a critical role in allowing U.S. industries devastated by unfair trade, including the steel industry, to make necessary investments and regain their competitive footing. It is important to emphasize that Byrd Amendment funds are made available only where, and to the extent, unfair trade continues after antidumping or countervailing duty orders have been put in place. When dumping and subsidization do not cease even in the face of such orders, it is essential that Byrd Amendment funds be provided to the affected domestic producers that are injured by such market-distorting behavior. Repealing the Byrd Amendment would deliver a major blow to U.S. manufacturers—along with agricultural and fishery industries—at a time when they face growing challenges from unfair trade.

In short, including H.R. 1121 in the miscellaneous tariff package would be unwise, unnecessary and highly controversial. Rather than pursuing such flawed legislation,

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[1] See Advisory from the U.S. House of Representatives Committee on Ways and Means, Subcommittee on Trade, requesting comments on technical corrections to U.S. trade laws and miscellaneous duty suspension bills (July 25, 2005).

the United States should continue to seek a negotiated solution for this issue at the WTO.

H.R. 2473 (Changes to Calculation of "All Others" Rate)

The Subcommittee's advisory also lists H.R. 2473 among the potential measures for inclusion in a miscellaneous tariff bill. As with proposals to repeal the Byrd Amendment, this measure would be highly controversial and has no place in the legislation under consideration.

H.R. 2473 includes language amending the "all others" rate provision of the antidumping statute—once again, apparently intended to implement an adverse decision of the WTO Appellate Body. In particular, in *United States—Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan* ("*Japan Hot-Rolled*"), the Appellate Body found that antidumping authorities may not calculate an "all others" antidumping duty rate for non-investigated companies using dumping margins that contain any element of "facts available."[2] (The use of so-called "facts available" relates to reliance on alternative sources of information where a respondent fails to provide complete or accurate information in the course of an antidumping proceeding). As the Bush Administration recognized when this decision was issued, the Appellate Body failed to follow the appropriate standard of review in reaching its decision and, as a result, the decision was deeply flawed.

Indeed, the Appellate Body's decision and the proposed amendment to the "all others" rate provision to implement it would raise a whole host of practical concerns about how meaningful "all others" rates could be calculated and about the administration of the antidumping law. Because the use of some degree of facts available is often required to calculate accurate trade remedy margins and meaningfully implement the statute, the Appellate Body's decision and the proposed amendment could make it impossible for the Department of Commerce to calculate an "all others" rate for non-investigated companies in many antidumping cases. This is a complex and controversial issue that certainly is not appropriately addressed in a miscellaneous tariff bill. As with the Byrd Amendment, the United States has also put this issue on the table of the Doha Round negotiations, and this effort should be allowed to proceed accordingly.

We appreciate the opportunity to provide these comments to the Subcommittee and hope that they will be taken into account in ongoing deliberations regarding the miscellaneous tariff bill.

American Manufacturing Trade Action Coalition
Washington, DC 20006
September 2, 2005

The Honorable E. Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

This submission from AMTAC is in response to the July 25, 2005, Subcommittee Advisory No. TR–3. which requested comments for the record regarding proposed bills concerning "technical corrections to U.S. trade laws and miscellaneous duty suspension proposals." A list of these miscellaneous trade bills is provided in the Advisory.

AMTAC represents over 200 domestic manufacturing companies in the textile, apparel, furniture, machine tool, steel products, plastics and other industry sectors which employ over American 35,000 workers with well-paying manufacturing jobs.

AMTAC opposes H.R. 1121. H.R. 1121 is "A bill to repeal section 754 of the Tariff Act of 1930" proposed for inclusion in this package. This bill is highly controversial and should be deleted from the miscellaneous tariff bill, since that vehicle has historically been utilized for non-controversial provisions.

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[2] "All others" rates are applied to non-investigated companies in antidumping cases and are calculated based on the duty rates of individually investigated producers. *See* 19 U.S.C. § 1673d(c)(5).

Strong Trade Remedy Laws Are Important To AMTAC:

AMTAC's manufacturing members, like all true domestic manufacturers, are facing a broad range of predatory trade challenges. These U.S. companies are in desperate need of a level playing field, and easier access to more effective trade remedies. Instead we have seen U.S. trade law amended in recent years to make access to remedies more difficult, and the remedies themselves weakened, through measures such as H.R. 1121.

H.R. 1121 will undermine trade remedy laws in the ways detailed below.

Concerns about H.R. 1121:

- This bill proposes to repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"). CDSOA has strong bi-partisan support from Members of Congress and the public. Any attempt to repeal CDSOA would attract intense controversy and strong opposition.
- Under CDSOA, the U.S. government to eligible domestic industries found to have been injured by dumped or subsidized imports distributes duties that are collected as a result of continued dumping or subsidization.
- CDSOA has no effect on how dumping and subsidy rates are calculated or on how much in duties importers must pay. All it does is simply distribute collected monies when unfair trade practices by our foreign competitors do not cease.
- CDSOA distributes money only when dumping and subsidization continues after an order. If dumping and subsidization cease, no funds are collected or distributed.

A Miscellaneous Trade Bill is Not the Vehicle to Implement WTO Panel or Appellate Body Decisions

H.R. 1121 is designed to change U.S. law in response to controversial decisions by WTO dispute panels and Appellate Body. A non-controversial miscellaneous trade bill is not the appropriate vehicle to make such legislative changes to our trade laws.

H.R. 1121 clearly responds to specific cases where WTO panels and its Appellate Body have engaged in overreaching their authority. On both the CDSOA and the "all-others" rate issues, Congress and the Administration have expressed displeasure with this WTO overreach. These and other WTO decisions have tried to impose on the U.S. obligations that were not negotiated and which are not apparent from the text of the WTO Agreements.

In addition, Congress has consistently told the Administration to work to seek a resolution of these controversial decisions through negotiations at the WTO. The Administration is currently doing just that in the Doha Round negotiations. H.R. 1121, if legislated, would interfere in these efforts.

In conclusion, H.R. 1121 needs to be expeditiously removed from the proposed miscellaneous trade bill.

Sincerely,

Auggie Tantillo
Executive Director

American Wholesale Furniture
Indianapolis, Indiana 46219
September 2, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

On behalf of my company, American Wholesale Furniture, I would like to thank you for the opportunity to comment on H.R. 1121, legislation to repeal the "Continued Dumping and Subsidy Offset Act" (CDSOA), commonly known as the Byrd Amendment. Our company, which relies on imported products, strongly supports this legislation's inclusion in the miscellaneous trade bill.

Headquartered in Indianapolis, IN, American Wholesale Furniture has 50 employees with 2004 sales at $20 million. We represent and supply more than 1,100

midsize retailers in the Midwest states, who employee more than 11,000 employees; who all rely on this imported product.

We support H.R. 1121's inclusion for the following reasons:

- The Byrd Amendment creates a clear incentive to file antidumping and countervailing duty cases. U.S. companies in line to receive payments have a clear incentive to include more products within the scope of cases, including products not even made in the United States. Consumers see cases filed because of the promise of Byrd money. Other cases include products not even produced here.
- The Byrd Amendment actually helps very few companies. More than half of the Byrd Amendment payments in 2004 went to only *nine* companies, and more than 80 percent of the payments went to only *44* companies nationwide.
- The prospect of Byrd Amendment money discourages settlement of antidumping and countervailing duty cases through suspension agreements, and creates an incentive for petitioners to broaden the scope of cases, often including products not even made in the United States or made in inadequate quantities. As a result, cases are broader, last longer and do more damage to consuming industries.
- Those who filed and support trade petitions are not required to use the Byrd money they receive for capital investments, job creation, worker retraining or improving U.S. competitiveness. There are no provisions in the law for any particular use for these funds. These companies receive a government handout and may insert the funds directly into their bottom lines.
- Byrd Amendment distributions can actually encourage the loss of American jobs offshore. Large U.S. Byrd Amendment recipients import products from countries that are subject to dumping orders. Their Byrd Amendment distributions can offset the dumping duties paid, giving the company an exemption from the impact of antidumping laws. They, unlike non-Byrd recipients, can import dumped products from their affiliates overseas without having to bear the financial burden of antidumping duties, since the U.S. government reimburses them.

Congress must consider repeal of the Byrd Amendment as quickly as possible. The inequities suffered by U.S. consuming industries are real and growing. Moreover, retaliation by our trading partners is increasing. Congress can avoid this looming catastrophe by acting promptly to repeal the Byrd Amendment.

The Byrd Amendment is bad policy for the United States economy and the American people. We urge the Committee to incorporate the legislation introduced by Mr. Ramstad and Mr. Shaw into the Miscellaneous Trade Bill and to attach it to any viable legislation to assure its being enacted without delay. This bill was adopted in the dead of night—it should be repealed in broad daylight with the greatest possible speed.

We appreciate the opportunity to supply these comments for the Subcommittee.

Sincerely,

Jim Mahin
American Wholesale Furniture

Ampac Packaging, LLC
Cincinnati, Ohio 45246
August 22, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to your July 25, 2005 Press Release, I am writing on behalf of Ampac Packaging, LLC and its 850 employees to express our strong opposition to the inclusion of H.R. 1121 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 1121 would repeal the Continued Dumping and Subsidy Offset Act ("CDSOA"). The bill is highly controversial. It cannot be fairly described as a "technical correction" to existing law.

Ampac Packaging, LLC is a privately owned, diversified international flexible packaging company with nine manufacturing centers. Ampac's primary products include upscale, domestic and overseas retail shopping bags, security bags and enve-

lopes, over 200 customer and proprietary film blends, stand-up pouches (with a variety of closures, fitments and spouts) and high-end performance rollstock.

Last year, our industry won antidumping cases against polyethylene retail carrier bags ("PRCBs") from China, Malaysia, and Thailand. With the antidumping orders now in place, we are concerned that some exporters are continuing to dump, absorbing the antidumping duties, and refusing to raise prices to non-injurious levels. CDSOA both discourages continued dumping and also compensates the victims of such continuing unfair trade. The law merely provides that antidumping duties are distributed to the supporters of the original antidumping petition. If and when the dumping stops, so do the CDSOA distributions. Thus, CDSOA has no impact on fairly traded imports.

Contrary to false claims of some consumers of unfairly priced imports, CDSOA has not led to the filing of frivolous antidumping petitions. In fact, the filing of new petitions has fallen sharply since CDSOA was enacted in 2000. Our industry filed our antidumping petitions because we were being injured by unfairly priced imports, not because of CDSOA.

Finally, it makes no sense to repeal CDSOA while negotiators in Geneva are considering a United States proposal to change the WTO Antidumping Agreement to clarify that that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, Congress should continue to urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering these comments.

John Q. Baumann
President and CEO

Ash Grove Cement Company
Overland Park, Kansas 66210
September 2, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to the Committee's July 25, 2005 Press Release, I am writing on behalf of the Ash Grove Cement Company to express our strong opposition to the inclusion of H.R. 1121 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 1121 is a highly controversial bill that would repeal the Continued Dumping and Subsidy Offset Act ("CDSOA"). It can by no means be fairly described as a "technical correction" to existing law.

Founded in 1882 and based in Overland Park, Kansas, Ash Grove operates nine cement plants, 23 cement terminals, one lime plant in the U.S. and has numerous subsidiaries in the concrete and aggregate industry.

In the late 1980's, our industry was severely damaged by dumped imports of cement from Mexico. The unfairly low prices of Mexican cement caused U.S. cement plants to close and took away any incentive to invest in new cement capacity. In 1990, the United States imposed antidumping duties on Mexican cement. Unfortunately, however, the dumping has not stopped. In fact, in the 13 administrative reviews conducted since the order was imposed, the Department of Commerce found that the dumping margin of CEMEX, S.A., the dominant Mexican producer, has averaged 63 percent. That means that even with the antidumping order in place, CEMEX's cement prices to customers in Mexico have been 63 percent higher than its cement prices to customers in the United States. The root cause of this unfair pricing behavior—a Mexican cement market that is closed to foreign competition—also has not changed since the antidumping order was imposed.

CDSOA both discourages continued dumping and also compensates the victims of such continuing unfair trade. The law merely provides that antidumping duties are distributed to the supporters of the original antidumping petition. If and when the dumping stops, so do the CDSOA distributions. Thus, CDSOA has no impact on fairly traded imports.

CDSOA distributions to date under the cement antidumping order have been very limited because the Mexican Government has refused to appoint NAFTA panelists to hear pending appeals of administrative reviews going back a number of years. It would be extremely unfair to U.S. cement producers to repeal CDSOA before these very old entries are liquidated and available for distribution. When distributed, these duties will help U.S. cement producers to invest in new production capacity and to create new jobs.

Contrary to what some consumers of unfairly priced imports have claimed, CDSOA has not led to the filing of frivolous antidumping petitions. In fact, the filing of new petitions has fallen sharply since CDSOA was enacted in 2000.

Finally, it makes no sense to repeal CDSOA while negotiators in Geneva are considering a U.S. proposal to amend the WTO Antidumping Agreement to clarify that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, your Committee should urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering these comments.

Sincerely,

Charles T. Sunderland
Chairman of the Board

Association of Food Industries, Inc.
Neptune, New Jersey 07753
September 2, 2005

The Honorable E. Clay Shaw, Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1104 Longworth House Office Building
Washington, DC 20515–6354

Dear Chairman Shaw:

These comments are submitted on behalf of the Association of Food Industries, Inc. (AFI) in support of H.R. 1121, a bill to repeal section 754 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675c, the so-called Continued Dumping and Subsidy Offset Act, otherwise know as the "Byrd Amendment." AFI is a trade association composed of approximately 200 U.S. member-companies that import a wide variety of food products from around the world. Several of these products are subject to antidumping and/or countervailing duties (AD/CVD), including: *Canned Pineapple Fruit from Thailand; Certain Pasta from Italy; Preserved Mushrooms from Chile; and Individually Quick Frozen Red Raspberries from Chile.*

AFI supports H.R. 1121 and repeal of the Byrd Amendment for several reasons.

- The Byrd Amendment has been ruled illegal by the World Trade Organization. Because of this country's failure to repeal the provision today, the WTO has authorized several of our major trading partners to institute retaliatory measures against U.S. exports. Indeed, Canada, the European Union and Japan have already established retaliatory tariffs. Several other major trading partners—including Brazil, Chile, India, Mexico and South Korea have gained authorization from the WTO to impose retaliatory duties of their own.

Obviously, it is highly unjust for certain select domestic producers to reap the benefits of Byrd Amendment payouts, while a much larger group of U.S. exporters—most of whom have not received a dime of "Byrd money"—are laden with punitive tariffs.

As the largest and most influential member of the WTO, the United States has an inherent obligation to abide by—not ignore—WTO rulings, even when those rulings may displease certain private sectors of our economy or interests within the legislative branch. If not, we can not realistically expect our trading partners around the globe to respect or adhere to WTO rulings that favor the position of the United States.

There should be no mistake: when we thumb our nose at the rules-based international trading system that this country is primarily responsible for establishing in the first place, we indelibly stain our claim to moral leadership in the global economy. This is not a proud position to take, especially in these precipitous times.

- The Byrd Amendment is unfairly punitive as to U.S. importers. These companies must operate under the weight of antidumping/countervailing duty measures regarding their trade in food products covered by such orders. While AFI respectfully submits that there are substantial flaws in the implementation of such orders—including frequent and inexcusable delays in the liquidation of entries to which AD/CVD duties apply—they understand that these measures are legally sanctioned by the WTO and U.S. law. When AD/CVD duties are imposed, they are paid.

However, there is no sound or just national or economic policy to justify remission of these duties to the U.S. companies that filed or supported the AD/CVD petitions. **The purpose of AD/CVD orders is to equalize pricing in the U.S. and "home" markets; it is not to provide a windfall for U.S. producers.**

- The clear inequity and demonstrable illegality of the Byrd Amendment is a direct consequence of the fact that it was approved by Congress through "back door" channels as a last minute amendment to an appropriations bill. It was NOT reviewed by the Subcommittees and Committees of jurisdiction, the very bodies to which such measures should be and typically are routinely referred so as to benefit from a knowledgeable and dispassionate review in light of existing law, international obligations and sound national and economic policy.
- Every dollar of Byrd Amendment money that does to a domestic petitioner/supporter is a dollar that no longer goes to the general fund of the U.S. Treasury. In other words, the Byrd Amendment operates as a drain on the budget of the United States which, at the very least, exacerbates the already dire budgetary shortfall in this country. **It is, purely and simply, a "deficit enabler."**

As a result of the diversion of AD/CVD duties from the U.S. Treasury to the pockets of domestic petitioners/supporters, government agencies and programs must make do with less, or the revenue lost would need to be otherwise re-generated through some form of tax hike or new fees. **In either case, the American public loses.**

There should be nothing controversial about the repeal of an illegal and ill-considered statutory provision. As this country aims in the current Doha Round of multilateral negotiations under the WTO to eliminate government subsidies provided abroad, we should not be fostering an illegal subsidy on our own shores. The time for repeal of the Byrd Amendment is now.

For these reasons, AFI strongly supports passage of H.R. 1121.

Respectfully Submitted,

Jeffrey S. Levin
Counsel to the Association of Food Industries, Inc.

Association of International Automobile Manufacturers
Arlington, Virginia 22201
August 31, 2005

The Honorable E. Clay Shaw
1238 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Association of International Automobile Manufacturers, Inc. (AIAM), I want to express our strong support for the inclusion of H.R. 1121, a bill to repeal the Continued Dumping and Subsidy Offset Act (CDSOA), in the miscellaneous trade bill.

AIAM is a trade association representing 14 international motor vehicle manufacturers who have invested over $27 billion to manufacture about 30 percent of all passenger cars and light trucks produced in the United States. AIAM members directly employ over 93,000 Americans, and generate an additional 500,000 U.S. jobs in dealerships and supplier industries nationwide. AIAM members include Aston Martin, Ferrari, Honda, Hyundai, Isuzu, Kia, Maserati, Mitsubishi, Nissan, Peugeot, Renault, Subaru, Suzuki and Toyota. AIAM also represents original equipment suppliers and other automotive-related trade associations.

While we have many objections to the CDSOA, commonly known as "The Byrd Amendment," we will focus on three of them. We strongly believe the Byrd Amendment is counterproductive to U.S. trade policy and injurious to U.S. manufacturers, especially to those which may use products subject to antidumping and countervailing duties. American companies pay these duties, and because of the Byrd

Amendment, these payments are then arbitrarily transferred to their competitors. As a result, one part of U.S. industry is taxed to subsidize another part of U.S. industry and one segment of the industry is pitted against another. This is bad policy and bad economics.

As if this was not bad enough, the Byrd Amendment has become a "double whammy" on U.S. business. In 2002, The World Trade Organization (WTO) determined the Byrd Amendment violates provisions of the WTO. The European Union, Canada, Japan and Mexico, among others, are either retaliating against U.S. exporters, or are in the process of doing so. Thus successful U.S. exporters who also may be paying antidumping or countervailing duties are now doubly penalized to pay for this injurious policy.

Our third objection is that the Byrd Amendment does not require the recipient of the funds to use them to improve the competitiveness of its business. There are only minimal restrictions on the use of the money and that use is not monitored. The money is simply a gift from the U.S. Treasury. This is bad policy.

We strongly urge inclusion of H.R. 1121 in the miscellaneous trade bill. Thank you for this opportunity to comment.

Sincerely,

Timothy C. MacCarthy
President and CEO

Statement of Michael Thomas DeArmon, Backyard Ventures, Amarillo, Texas

We support repeal of the Byrd Amendment (Continued Dumping and Subsidy Offset Act) because:

- The Byrd Amendment provides a double hit on American manufacturers who use products subject to antidumping and countervailing duties. American companies are the ones that pay these duties, and because of the Byrd Amendment, they have these duty payments transferred to their U.S. competitors. Therefore, part of an industry is taxed to subsidize another part of that industry.
- The Byrd Amendment is a blatant subsidy to a very few companies that, far from assisting American manufacturing, actually undermines it. Most American manufacturers do not benefit from the Byrd Amendment. More than half the Byrd Amendment payments in 2004 went to only *nine* companies, and more than 80 percent of the payments went to only *44* companies.
- The Byrd Amendment does not restrict the recipients' use of Byrd Amendment money.
- Allocation of Byrd Amendment money is based on "qualified expenditures," which are not monitored or audited by Customs or any government agency.
- The Byrd Amendment annually funnels money collected from the imposition of anti-dumping duties from government coffers to companies that petition for those duties. Such funneling has totaled more than $1 billion to date, with billions more waiting in the wings.
- U.S. producers are encouraged to file trade actions knowing full well that they will be eligible for Byrd money. U.S. companies in line to receive these payments have a clear incentive to include more products within the scope of antidumping cases, including products not even made in the U.S. Because the duties on the imported products are funneled to the petitioning companies, the Byrd Amendment creates a disincentive to produce the product subject to the duty in the U.S.
- We rely on open trade for our export sales and our purchase of inputs. The Byrd Amendment makes importing raw materials more difficult and risky, increasing our costs and uncertainty.
- This law was passed without consideration by the appropriate committees of Congress and has done unforeseen injury to American companies.
- The antidumping and countervailing duty laws are more arbitrary, the duties are higher and orders are harder to revoke or change as a result of the Byrd Amendment.
- This harms consuming industries, but they have no ability to participate meaningfully in these cases. Repeal of the Byrd Amendment is an essential step in allowing consuming industries an opportunity to protect their interests as a matter of fundamental fairness.

- We export products that are actually or potentially subject to retaliation: our major trading partners will take action against U.S. exports as a result of the failure of Congress to repeal this WTO-illegal measure.

[By permission of the Chairman:]

Ball and Roller Bearing Manufacturers Association
Birmingham, United Kingdom, B16 9PN
August 31, 2005

The Honorable E. Clay Shaw, Jr
Chairman, Subcommittee on Trade
House Committee on Ways and Means
United States House of Representatives
1236 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw,

This letter is written on behalf of BRBMA (Ball and Roller Bearing Manufacturers' Association) in response to the Subcommittee on Trade's solicitation of written comments to the record from interested parties concerning technical corrections to U.S. trade laws and potential inclusion of pending bills in the miscellaneous trade package. The Council of the BRBMA is made up of member companies engaged in the manufacture of bearings and engine components, employing over 3000 people at facilities located throughout Great Britain. All members are subsidiaries of parent Companies domiciled in Europe, Japan or the USA.

The BRBMA appreciates this opportunity to strongly urge the Subcommittee to include H.R. 1121 in any miscellaneous trade bill, to repeal § 754 of the Tariff Act of 1930, 19 U.S.C. § 1675c, the Continued Dumping and Subsidies Offset Act of 2000 ("CDSOA" or "Byrd amendment").

I. Introduction

The CDSOA is an illegal subsidy awarded to a very small group of American companies. While the law clearly benefits the chosen few, its effect is overwhelmingly negative for most international and domestic companies alike, to say nothing of the consuming public. Moreover, by ignoring the World Trade Organisation ("WTO") ruling that the law is illegal, the U.S. government is undermining the rule of law and U.S. interest here and abroad. It is therefore essential that H.R. 1121 which would repeat the Byrd amendment, be included in the miscellaneous trade bill and, ultimately, be enacted into law.

II. Background

In October 2000, the Congress enacted the CDSOA as part of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2001.[1] The CDSOA was inserted in to the Act without being reviewed by any committee having jurisdiction over trade matters in either the House or the Senate. President Clinton signed the bill on October 28, 2000, but protested the inclusion of the CDSOA provision, recognising that it violated U.S international trade obligations. The Byrd amendment has been highly controversial since it was signed into law, and it is generally agreed that it would not have withstood Congressional scrutiny had it been considered and evaluated as separate legislation.

The CDSOA revised the long-standing practice in the United States whereby customs duties received from the importation of merchandise covered by an antidumping or countervailing duty order are paid into and remain a part of the United States Treasury. Under the CDSOA, the domestic producers that filed and/or supported the original antidumping or countervailing duty petitions are instead paid those monies collected after U.S. Customs and Border Protection deposits them in the U.S. Treasury's Offset Account. The CDSOA has resulted in more than $1 billion in antidumping and countervailing duties being dispersed by Customs to affected domestic producers through 2004.[2] More than half the Byrd amendment pay-

[1] Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2001, Pub. L. No. 106–387, 114 Stat. 1549 (2000).
[2] Http://www.citac.info/press/release/205/08_01.php

ments in 2004 went to only nine companies, and more than 80 percent of the payments went to only 44 companies.[3]

On January 9, 2001, nine members of the WTO—Australia, Brazil, Chile, the European Community, India, Indonesia, Japan, Korea, and Thailand—requested consultations with the United States to contest the legality of the Byrd amendment.[4] Failure to resolve the dispute during consultations led to the establishment of a Dispute Settlement Body ("DSB").

Joined by Canada and Mexico, the complaining parties argued that the CDSOA violated the GATT, the Antidumping Agreement ("AD Agreement"), and the Subsidies and Countervailing Measures Agreement ("SCM Agreement").[5] After due consideration, the DSB held that the CDSOA was inconsistent with articles 5.4, 18.1, and 18.4 of the AD Agreement; articles 11.4, 32.1, and 32.5 of the SCM Agreement; articles VI:2 and VI:3 of the GATT 1994; and article XVI:4 of the WTO Agreement.[6] The panel therefore ordered the United States to conform the CDSOA to these international agreements.[7]

On October 22, 2002, the United States appealed the DSB's decision to the Appellate Body for subsequent review, arguing that the CDSOA was a permissible, specific relief action against dumping or subsidisation, and was thus consistent with article 18.1 of the AD Agreement and Article 32.1 of the SCM Agreement.[8] In a January 16, 2003 report, the Appellate Body affirmed the DSB's determination that the CDSOA violated the United States' international obligations.[9]

The DSB adopted the report of the panel as modified by the Appellate Body on January 27, 2003.[10] The deadline for the United States to conform the CDSOA to WTO principles expired on December 27, 2003.[11] After failing to do so, eight member nations in January 2004 petitioned the DSB to allow retaliation.[12] In August of that year, the arbitrator decided that retaliatory sanctions could be applied equivalent to seventy-two percent of the disbursements made under the CDSOA.[13]

III. The CDSOA is illegal

The first reason the CDSOA should be repealed is because it is illegal. As explained above, the DSB has determined that the law is inconsistent with WTO requirements. While a WTO decision is not binding on a member state, the United States is undermining its role as an international leader by continuing to ignore the WTO's ruling.

A fundamental principle of the global economy is that no national entity has the ability to function independent of others. The influence that national economies have on each other elicits the need for an international trading framework. The GATT system was founded upon rules of non-discrimination, trade liberalisation, fair competition, and sovereignty.[14] The WTO, in incorporating the provisions of GATT and its amendments, functions as "reciprocally and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international trade relations." [15]

The WTO refined specific provisions of the GATT with respect to antidumping procedures in the Agreement on Implementation of Article VI in order to further harmonize the international trade system. The effort to preserve fairness is an essential element of the Agreement.[16] The United States, by not complying with the

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[3] http://www.citac.info/press/release/205/08_01.php

[4] Request for Consultations, WT/DS217/1 (Jan. 9, 2001), available at http://wto.org.

[5] Report of the Panel—Continued Dumping and Subsidy Offset Act of 2000, WT/DS217/R, P1.4 (Sept. 16, 2002), available at http://www.wto.org/english/tratop_c/dispu?e/217_234r_a_e.pdf [hereinafter Panel Report].

[6] *See id.* At 8.1.

[7] *See id.* At 8.4–8.6.

[8] See WTO Report of the Appellate Body—Continued Dumping and Subsidy Offset Act of 2000, WT/DS217/AB/R, WT/DS234/AB/R (Jan. 16, 2003).

[9] *See id.*

[10] Decision by the Arbitrator, United States—Continued Dumping and Subsidy Offset Act of 2000: Recourse to Arbitration by the United States Under Article 22.6 of the DSU, ST/DS217/ARB (Aug. 31, 2004).

[11] *See id.*

[12] *See id.*

[13] *See id.* at 5.2.

[14] *See* General Agreement on Tariffs and Trade, pmbl., Oct. 30, 1947, 61 Stat. A–11, T.I.A.S. 1700, 55 U.N.T.S. 194.

[15] GATT, pmbl.

[16] This is evidenced by the fact that duties "shall remain in force only as long as and to the extent necessary to counteract dumping which is causing injury." Agreement on Implementation

Continued

WTO decision, is abandoning the principles of international trade which it successfully advocated over the past half century.

IV. *The CDSOA is bad for the global economy*

The Byrd amendment is fundamentally unfair to global competitors. The CDSOA encourage U.S. producers to file and support trade actions knowing they will be eligible for subsidies under the CDSOA if they do so. There is also a legitimate fear that the United States' decision to ignore the WTO ruling will lead to a domino effect, with other countries adopting protectionist measures and ignoring any subsequent WTO decisions.[17] To the extent other countries adopt comparable policies, not repealing this law may lead to further interference in the ability of U.S. exporters to complete in the global trading system.

V. The CDSOA is bad for the U.S. economy

The CDSOA should be repealed because it is likewise detrimental to the economic welfare of the United States. It provides for the annual payment of a significant unearned subsidy to a very few companies that, far from assisting American manufacturing, actually undermines it.[18] The CDSOA harms more American companies than it helps. It has a double impact on American manufacturers who use products subject to antidumping and countervailing duties. The imposition of dumping or countervailing duties on imported products is designed to equalize the so-called competitive advantage those products enjoy over comparable products produced in the United States. This is the basic economic rationale that underlies the antidumping and countervailing duty laws. American importers, including those subsequently in receipt of distributions, pay these duties. However the subsequent distribution eliminates the equalisation factor, and a distinct competitive advantage is shifted to CDSOA beneficiaries. This is not what the trade laws are designed to do.

For U.S. companies within the field of a subject antidumping case, the CDSOA also encourages inefficient production. Domestic firms that have ceased producing the subject merchandise now have an incentive to resume production and receive the CDSOA distribution. Under the law, a firm can receive distributions only if it is in the business of producing the good in question. That a company ceased production after the duty was imposed suggests that it was not as competitive a producer as the other firms in the market. A firm that returns to production therefore, may inefficiently employ capital, labor, land, and other resources that would be more productively employed in producing another good or service.[19]

Firms that have not ceased production, on the other hand, are encouraged by the CDSOA to increase their output beyond the levels signalled by market incentives. The Byrd amendment stipulates that "the distributions shall be made on a pro rata basis based on new and remaining qualifying expenditures," where qualifying expenditures consist of expenditures on manufacturing facilities, equipment, research and development, and just about anything else. Many of these expenditures vary with the scale of production. The effect of the CDSOA is to subsidize the perceived cost of production by domestic firms.[20] This affects not only the companies involved in the dumping case. Such firms increase their output beyond the point where the unsubsidized cost to the firm, and thus to the economy, is balanced by the price. Since the price or value is less than the cost to the economy of that additional output, the economic welfare of the country is reduced.[21] The overall net effect of the distributions mandated by the CDSOA is to cause the firms receiving the distributions to produce output at greater cost than it is worth, and to cause domestic firms that do not receive the distributions to restrict output that would be worth more than the cost of production. As a consequence, U.S. gross domestic product and gross national product decline.[22]

The CDSOA also significantly increases transaction costs. The resources necessary to pursue a successful antidumping or countervailing duty claim (i.e., costs of lawyers, economists, and lobbyists) are transaction costs that add to the social cost of the laws. By increasing the incentives for firms to file and pursue antidumping peti-

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of Article VI of the General Agreement on Tariff and Trade 1994, § 2.1 (1994), available at http://www.wto.org/english/docs_e/legal_e/19-adp.pdf.

[17] Charkravarthi Raghavan, Three Disputes Sent to Panel, Third World Network (July 24, 2001), at http://www.twnside.org.sg/title/disputes/htm.

[18] http/:www.citac.info/press/release/2005/08_01.php

[19] Office of Management and Budget, Economic Analysis of the Continued Dumping and Subsidy Offset Act of 2000, (Mar. 2, 2004).

[20] *See id.*

[21] *See id.*

[22] *See id.*

tions and by adding similar costs associated with implementing the distribution of duty revenues, the CDSOA increases those social costs.

Moreover, by increasing the likelihood of cases being filed and/or maintained, the law increases the burden on the federal government. These cases must be administered by the International Trade Commission and the Department of Commerce, consuming time and resources. At the same time, the CDSOA funnels money collected from the imposition of duties from government coffers to the few companies that petition for those duties. Such funnelling has totalled more than $1 billion to date, with billions more waiting in the wings. Taking money from the federal government, especially at a time of huge budget deficits, to give it to a tiny segment of U.S. industry that is not entitled to it consonant with U.S. international trading obligations, is hardly sound fiscal policy. The actual cost of the provision is stated directly by the Administration's FY2004 budget proposal:

The budget also proposes to repeal a Treasury-administered provision in the 2001 Agriculture Appropriations Act, the Continued Dumping and Subsidy Offset Act of 2000, that annually pays approximately $230 million to complainants in anti-dumping/countervailing duty cases. These corporate subsidies effectively provide a significant "double-dip" benefit to industries that already gain protection from the increased import prices provided by countervailing tariffs. While the Administration does not believe that these payments are inconsistent with U.S. treaty obligations, repeal of the provision would allow the funds to be directed to higher priority uses.

Accordingly, not only would repeal of the CDSOA not cost the Government anything, it would actually result in a net annual Governmental benefit of approximately $230 million.

VI. U.S. Exporters are now exposed to WTO-sanctioned retaliation by trading partners

Not only is the CDSOA, in itself, bad for the U.S. economy, but now other countries are in the process of retaliating against the United States for not adhering to the WTO ruling. From September 1, 2005, Japan will impose a 15% duty on steel imports from the U.S., targeting products such as ball bearings and airplane parts (which are produced in the U.S. by various companies affiliated to our members). These additional tariffs could amount to as much as $51 million. Japan's action follows the European Union's and Canada's decision to impose retaliatory duties on U.S.-made goods, which began on May 1, 2005. The EU imposed a 15% duty on various types of paper, clothing fabrics, footwear, and machinery—amounting to tariffs worth approximately $28 million, and Canada imposed like duties on cigarettes, oysters and live swine, worth about $14 million. On August 18, 2005, Mexico began imposing tariffs of 30% on dairy blends, 20% on wine, and 9% on chewing gum and candy manufactured in the U.S.

VII. Conclusion

As detailed above, the BRBMA would submit that the CDSOA should be repealed. By ignoring the WTO's ruling of illegality, the U.S. Government is compromising the rule of law, as well as American standing in global trade negotiations. Not only is the law illegal and unfair to both international and domestic companies, the law is economically unsound, resulting in immediate and significant damage to the world and U.S. economies. Its continued application is also exposing U.S. exporters to WTO-sanctioned retaliation by trading partners. For these reasons, the BRBMA of Great Britain urges that H.R. 1121 be included in the miscellaneous trade package, and that it be repealed immediately.

Thank you for considering these comments.

Yours sincerely,

Kate Hartigan
Managing Director

Moultonborough, New Hampshire 03254
August 30, 2005

I am writing in support of H.R. 1121 and a repeal of the so-called Byrd Amendment.

The "Byrd Amendment" has been very disruptive of the part of the construction supply business that I am in. We provide metal plate connected wood trusses that allow for the safer, more efficient construction of homes and other wood frame buildings.

Here in the Northeast part of the U.S., much of the lumber in the grades required for efficient framing come from Canada. The protectionist trade remedies that have

been imposed on Canadian softwood lumber have dramatically increased the cost of the materials used in our products and therefore, hurt the consumers of our products, who, for the most part, are homebuyers.

The added cost of this lumber has also produced a serious problem in the ability of U.S. wood truss manufacturers to compete with the Canadian manufacturers who are not subject to the Tariff that the Byrd Amendment allowed to be imposed. This has caused the elimination of jobs in the truss industry in the U.S.. Canadian truss manufacturers are unfairly advantaged because the tariff on the lumber they use is not applied. The tariff adds as much as 25 to 30% to the price on the material that makes up about 50% of the product cost. American truss manufacturers are being hurt by this situation, and, more importantly, the cost of housing is increased.

This tariff has rewarded the petitioning companies to the point where trade suits are encouraged, and the result is more protectionist laws, not open trade that benefits the consumers.

The tariffs have also resulted in retaliation from other countries, such as the duty Canada has announced it will impose on a number of U.S. products, further hurting American workers. Punitive tariffs are also being imposed by the E.U. on a number of U.S. made products.

The passage of this repeal will allow the market to return to finding its own balance, a situation that benefits everyone.

Thank you for providing me with this opportunity to provide information for you on this subject. I hope it is useful to you in making an informed judgment on this important issue. I invite you to contact me if I can I can be of any further help.

Sincerely,

Josiah H. Bartlett

Statement of Paula J. Prahl, Best Buy Co. Inc., Richfield, Minnesota

We want to take this opportunity to stress how vital it is that the subcommittee support H.R. 1121, currently under consideration in the miscellaneous trade bill. Best Buy is the number one consumer electronics retailer in the nation and has substantial interest in the outcome of this bill.

H.R. 1121—A bill to repeal Section 754 of the Tariff Act of 1930

When section 754 of the Tariff Act of 1930, known as the Continued Dumping and Subsidy Offset Act (CDSOA) became law, not many members of Congress knew that the CDSOA (now known also as the "**Byrd amendment** ") had been added to the legislation until after the vote. All members were denied the opportunity to understand its full ramifications through committee hearings, public comment, or debate.

Since its passage, the CDSOA has proven to be one of the worst pieces of trade legislation passed in recent memory. To no great surprise for those who understood its deficiencies but had no opportunity to comment on them, the CDSOA was also found to violate U.S. obligations under the rules of international trade. In short, the CDSOA a paradigm example of how efforts to circumvent the legislative process invariably result in ill-considered and flawed bills, from which flows a host of damaging consequences.

Best Buy applauds the introduction of H.R. 1121 to repeal the CDSOA and its possible inclusion in a miscellaneous trade bill. Examination of the impact and effect of the CDSOA since it went into effect present compelling arguments supporting the conclusion that it is bad law and should be repealed.

- The CDSOA has funneled more than $1 billion (with billions more in the offing) from the U.S. Treasury general fund—away from spending on public education, housing, the courts, enforcement of our environmental laws, national security, or other basic services of the federal government—and into the pockets of companies that do not need to account to the American taxpayer or anyone else what they intend to do with the money. It is, in short, unmerited and unlawful corporate welfare and a frightful waste of government money.
- The World Trade Organization rightly ruled that the CDSOA violates U.S. international trade obligations and has authorized retaliation against U.S. exports for Congress' failure to repeal it by the end of 2003.
- CDSOA undermines the proper administration of the trade remedies laws and harms average American consumers and the U.S. economy. It does so by encouraging, and in effect subsidizing companies to join in the filing of antidumping and countervailing duty investigations they would otherwise have not supported, and against products that would otherwise not have been included

in the scope of the investigations because they are not produced in the United States.

- Finally, as long as the CDSOA remains on the books, it will increasingly act to undermine U.S. global leadership on trade. The ability of our trading partners to paint the United States as a scofflaw for failure to repeal this law will deal a serious blow to U.S. credibility in WTO negotiations and dispute settlement cases that are of key importance to U.S. trade policy objectives and our economy.

These are just a few of the reasons why it is high time to repeal the CDSOA, and why Best Buy strongly supports H.R. 1121 and encourage its inclusion in the next miscellaneous tariff bill.

Best Buy appreciates the opportunity to offer these comments on the miscellaneous trade bill. We strongly support and urge the inclusion of H.R. 1121.

British Embassy
Washington, DC 20008
September 2, 2005

Congressman E. Clay Shaw, Jr.
Chairman
Subcommittee on Trade of the Committee on Ways and Means
Longworth House Office Building
Washington DC 20515

Dear Chairman Shaw,

The British Government welcomes the opportunity to comment on the inclusion of H.R. 1121, repealing Section 754 of the Tariff Act of 1930, into miscellaneous trade legislation to be considered by your Committee. We attach the highest importance to maintaining and promoting the normal business relations so critical to the prosperity of our two countries. For these reasons the British Government hopes that your Committee will take the views expressed in this letter into account during its deliberations.

The vast majority of trade and business conducted between the United Kingdom and the United States is undertaken under normal circumstances and without impediment. However, such are the complexities of international trade that occasionally issues do arise that have an adverse affect on our ability to maintain normal trading conditions. In general terms, when such difficulties arise both the British Government and the European Commission will always prefer their resolution through consultations if at all possible.

Regrettably, the Byrd Amendment has resulted in a World Trade Organisation dispute and WTO-authorised retaliation addressing the concerns of a number of members including the European Union. The British Government hopes that your Committee will give positive consideration to the provisions of H.R. 1121 as a means to resolve this issue and so enable the E.U. to withdraw its retaliatory measures.

The U.K.'s Department of Trade and Industry has received comments both from U.K. traders importing goods from the U.S. and from subsidiaries or affiliates of U.S. owned companies emphasising that their businesses are being damaged by the current situation. We are aware too, that U.S. owned businesses operating in the U.K. have written to your Committee expressing concerns about the adverse impact on their business interests in the United States.

Issues arising from the WTO Dispute Settlement Understanding are, of course, a matter of E.U. rather than Member State competence. The European Commission has already submitted comments in relation to H.R. 1121 on behalf of the E.U. and its Member States. The comments of the British Government in this matter should be considered as being complementary to those that you have already received from the European Commission.

Thank you again for the opportunity to comment on this important matter.

David Manning
Ambassador

[By permission of the Chairman.]

Statement of Beatrice Khne and Sigrid Zirbel, Bundesverband der Deutschen Industrie, e.V., Berlin, Germany

1. About BDI

The BDI (Federation of German Industries) is the **umbrella organization** for a total of **35 industrial sector associations** and groups of associations in Germany. It represents the interests of **more than 100,000 enterprises**,employing about **8 million people,** in dealings with national and international legislative and decision-making bodies.

2. Why BDI supports the repeal of the Byrd Amendment

- The World Trade Organizationn (WTO) has found that the *Byrd Amendment* **violates WTO agreements** and distorts trade. However, the U.S. has ignored this ruling.
- Failing to act on the WTOs ruling **undermines** the U.S. government's ability to take **a leadership role** on international trade issues.
- The *Byrd amendment* takes a **dual toll** on global companies: first, foreign companies are forced to pay these duties. Second, due to the Byrd Amendment, the duty payments are then transferred to competitors from the U.S.
- The *Byrd Amendment* encourages **U.S. producer** to file trade actions, as they know full well that they will be eligible for subsidies. U.S. companies in line to receive these payments have a **clear incentive** to include more products within the scope of anti-dumping or anti-subsidy cases, including products not even made in the U.S.
- **Products** that are **not produced in the U.S.** are **still included** in the scope of products subject to *Byrd Amendment* duties—due solely to the potential windfall of Byrd payments, which has totalled more than $ 1 billion to date, with billions more waiting in the wings.
- The **allocation** of *Byrd Amendment* money is based on "qualified expenditures", which are **not monitored or audited** by Customs or any other government agency.
- **German industries rely on open trade for their export sales.** The *Byrd Amendment* makes exporting raw materials for U.S. consuming industries and consumers more **difficult and risky,** increasing their **costs and uncertainty.**

3. BDI Position

The intent of antidumping measures is to **neutralize any detrimental effects of dumping**. The *Byrd Amendment* passes funds from importers to complaining parties, which amounts to **overcompensation** (dumping tariffs on imports and financial transfer to complaining companies). The *Byrd Amendment* **encourages the use of the antidumping instrument** and has therefore been recognized as clearly in violation of WTO rules. **The U.S. should bring its antidumping laws into WTO compliance as soon as possible and repeal the Byrd Amendment.**

Buzzi Unicem USA Inc.
Bethlehem, Pennsylvania 18017
August 30, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to the Committee's July 25, 2005 Press Release, I am writing on behalf of Buzzi Unicem USA and its 1,600 employees to express our strong opposition to the inclusion of H.R. 1121 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 1121 is a highly controversial bill that would repeal the Continued Dumping and Subsidy Offset Act ("CDSOA"). It can by no means be fairly described as a "technical correction" to existing law.

Buzzi Unicem USA is the fourth largest cement company in the U.S. Headquartered in Bethlehem, PA, we operate 10 cement plants located in the states of Missouri, Tennessee, Indiana, Kansas, Texas, Louisiana, Illinois, Oklahoma and

Pennsylvania. In addition to our plants, we also operate 26 cement terminals with many located in the Texas, Louisiana, Tennessee and Oklahoma area.

In the late 1980's, our industry was severely damaged by dumped imports of cement from Mexico. The unfairly low prices of Mexican cement caused U.S. cement plants to close and took away any incentive to invest in new cement capacity. In 1990, the United States imposed antidumping duties on Mexican cement. Unfortunately, however, the dumping has not stopped. In fact, in the 13 administrative reviews conducted since the order was imposed, the Department of Commerce found that the dumping margin of CEMEX, S.A., the dominant Mexican producer, has averaged 63 percent. That means that even with the antidumping order in place, CEMEX's cement prices to customers in Mexico have been 63 percent higher than its cement prices to customers in the United States. The root cause of this unfair pricing behavior—a Mexican cement market that is closed to foreign competition—also has not changed since the antidumping order was imposed.

CDSOA both discourages continued dumping and also compensates the victims of such continuing unfair trade. The law merely provides that antidumping duties are distributed to the supporters of the original antidumping petition. If and when the dumping stops, so do the CDSOA distributions. Thus, CDSOA has no impact on fairly traded imports.

CDSOA distributions to date under the cement antidumping order have been very limited because the Mexican Government has refused to appoint NAFTA panelists to hear pending appeals of administrative reviews going back a number of years. It would be extremely unfair to U.S. cement producers to repeal CDSOA before these very old entries are liquidated and available for distribution. When distributed, these duties will help U.S. cement producers to invest in new production capacity and to create new jobs.

Contrary to what some consumers of unfairly priced imports have claimed, CDSOA has not led to the filing of frivolous antidumping petitions. In fact, the filing of new petitions has fallen sharply since CDSOA was enacted in 2000.

Finally, it makes no sense to repeal CDSOA while negotiators in Geneva are considering a U.S. proposal to amend the WTO Antidumping Agreement to clarify that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, your Committee should urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering these comments.

Sincerely,

David A. Nepereny
President and CEO

Michael Berlin
Senior Vice President, Marketing, Promotion and Government Affairs

William Humenuk
Senior Vice President, General Counsel and Secretary

Bruce Keim
Senior Vice President, Technical Services

Statement of Allen Erickson, Cal-Asia Truss, Concord, California

The "Continued Dumping and Subsidy Offset Act of 2000," often called the "Byrd Amendment," allows for the distribution of CVD/AD deposits to affected U.S. producers who originally petition for trade remedies that result in the imposition of such duties. I am writing in support of H.R. 1121, and a repeal of this "Byrd Amendment."

Cal-Asia Truss produces structural building components—metal-plate connected wood trusses and open-web floor joists—which are made primarily of softwood lumber and light gauge, galvanized steel connector plates. Our products are used mainly in residential homes across the country, as well as multi-family dwellings and light-commercial and agricultural buildings.

According to the International Trade Commission (ITC), 36% of the softwood lumber used in the U.S. comes from Canada. Based on our industry financial performance statistics, combined with a study done by the ITC, the structural building com-

ponent industry's annual steel purchases are approximately 475,000 tons of steel in truss plates and an additional 130,000 tons in connectors.

Hence, my company's competitiveness and profitability are directly harmed by the protectionist trade remedies encouraged and exacerbated through the Byrd Amendment. Please allow me to offer the following observations:

Byrd Creates Perverse Incentive:

The Byrd Amendment is bad policy because it essentially creates a double benefit for targeted companies: first, through an increase in prices due to a tariff-induced reduced supply; and second, through the distribution of tariff dollars to the petitioning companies that already gain the benefit from the increase in prices.

As a consequence, the Byrd Amendment has simply encouraged additional U.S. companies to file more protectionist trade suits to reap the benefits of a direct payment from their marketplace competitors.

Byrd Encourages Protectionist Trade:

According to the World Trade Organization, as recently as 1997 only 15 antidumping cases were filed in the U.S., and only nine in the entire first half of 2000. But since the Byrd Amendment took effect, the numbers have climbed to 76 in 2001, 35 in 2002, and 37 in 2003.

Forty-four U.S. companies have each collected at least $1 million through the Byrd Amendment in 2004, and total assessed duties were over $284.1 million. From 2001 through 2004, U.S. Companies have benefited from more than $1.04 billion through this protectionist trade law.

Byrd Makes My Problems Worse:

First, as stated earlier, the Byrd Amendment encourages the filing of CVD/AD trade remedy cases. These trade tariffs artificially raise the cost of my raw materials, like softwood lumber and steel, which also leads to unnecessary uncertainty or restriction of supply.

Second, the Byrd Amendment makes it possible for nearly $4 billion in CVD/AD duties collected on the importation of Canadian softwood lumber to be distributed to U.S. petitioning companies. However, U.S. petitioning companies account for only 54 percent of U.S. softwood lumber production. This provides an unfair competitive advantage to these petitioning companies.

Third, the possibility of distribution created by the Byrd Amendment of this nearly $4 billion in CVD/AD duties makes a negotiated settlement of the softwood lumber dispute between the U.S. and Canada nearly impossible.

Byrd Unfair, Passed Unfairly:

The Byrd Amendment was passed as an add-on to a last minute appropriations bill, without consideration by the appropriate committees of Congress.

The Byrd Amendment creates harm to consuming industries like mine, and yet I have no ability to participate meaningfully in the trade cases the Byrd Amendment encourages. Repeal of the Byrd Amendment is an essential step in allowing consuming industries an opportunity to protect our trade interests.

Byrd Harms International Trade:

The WTO ruled the Byrd Amendment illegal two years ago, and in November 2004 it gave formal approval for Canada, Japan, the EU and four other jurisdictions to retaliate against the U.S. for refusing to amend or rescind the Byrd Amendment.

In March 2005, the Canadian government announced it would impose a punitive 15 percent duty, equaling $11.6 million annually, on targeted goods including oysters, live swine, specialty fish and cigarettes imported from the U.S. The EU announced similar punitive tariffs as well on paper, agricultural, textile and machinery products imported from the U.S.

Thank you for allowing me to provide my comments on H.R. 1121, please feel free to contact me if you have any questions or need for further information.

California Minnesota Honey Farms
Eagle Bend, Minnesota 56446
August 28, 2005

My name is Jeff Anderson; I operate a migratory beekeeping operation California Minnesota Honey Farms based in Oakdale California and Eagle Bend Minnesota. My operation is or *was,* geared primarily toward honey production. Unfair competition primarily from China has severely cut into domestic honey pricing. Anti dump-

ing followed by the Byrd Amendment have helped domestic honey prices attain workable levels.

I am writing because of my concerns with the 2005 Miscellaneous Tariff Bill. There are two very troubling portions; H.R. 1121 and H.R. 2473.

I am strongly opposed to HR 1121 because it will repeal the Continued Dumping and Subsidy Offset Act of 2000. (CDSOA) CDSOA, The Byrd Amendment was responsible for getting and keeping domestic honey prices at a level which kept my beekeeping operation solvent. With 2003 through early 2004 honey prices, the roughly 350,000 lbs I produce grossed about $525,000, if prices fall to Chinese levels that same crop will gross $168,000. In 2004 my tax return showed about $25,000 'profit'. *DO THE MATH; I can not compete* against cheap Chinese honey produced by 'slave labor'. Communist economies are driven by government greed, not real life cost of doing business. If a product cost to much to produce simply pay your 'slaves' less to produce it; undercut your competition until they cease to exist; then raise the price to a profitable levels. My operation will cease to exist if the Byrd Amendment is repealed, and honey prices fall to and stay at 'Chinese' levels.

I am also opposed to HR2473. HR2473 will 'alter' the calculation for 'all others' and will significantly reduce duties collected. The effect will be more financial incentive for the Chinese to import cheap, substandard honey.

The proposed repeals amount to 'outsourcing'. 'Outsourcing' honey will put U.S. beekeepers out of business. Putting U.S. beekeepers out of business will have a ***HUGE*** ripple effect. Honeybees are responsible for a large portion of food produced. There is already a large outcry from crop growers that require insect pollination to set their crops. Honeybees are in short supply. Putting the pollinator's 'managers' out of business by trying to save consumers a few pennies in retail honey prices is folly. It is not possible to 'outsource' pollination!!! The pennies saved will cost thousands in the long run. Crop shortfalls will cause food prices to skyrocket.

PLEASE!!! *Apply some uncommon sense;* do not repeal CDSOA, ***VOTE NOT ON (H.R. 1121).*** PLEASE!!! Do not alter the duties collected; ***VOTE NO ON (HR 2473).***

Thanks for you consideration and actions in this matter.

Sincerely

Jeff Anderson
Owner and operator

California Cut Flower Commission
Watsonville, California 95077
September 1, 2005

The Honorable E. Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

On July 25, 2005, the Subcommittee issued Advisory No. TR–3. which requested comments for the record regarding proposed bills concerning "technical corrections to U.S. trade laws and miscellaneous duty suspension proposals." A list of these miscellaneous trade bills is provided in the Advisory. This letter is the California Cut Flower Commission's response to the Subcommittee's request.

The California Cut Flower Commission (CCFC) represents over 300 cut flower growers in the state of California. These growers produce approximately 70% of the cut flowers grown in the United States.

In particular, the CCFC is concerned about, and opposes, two bills; H.R. 1121, and H.R. 2473. H.R. 1121 is "A bill to repeal section 754 of the Tariff Act of 1930" and H.R. 2473 is "A bill to amend the Tariff Act of 1930 relating to determining the all-others rate in antidumping cases." These bills are controversial and should be deleted from the final miscellaneous trade bill.

Strong Trade Remedy Laws Are Important To Fair Trade:

As the organization that represents the vast majority of cut flower producers in California, the CCFC is an unwavering supporter of strong trade law remedies. Effective and useable trade remedy laws are important tools to maintaining a level

playing field for our industry in particular and more broadly for U.S. agricultural producers.

The CCFC believes that any attempt to weaken trade remedy laws in this bill or elsewhere, should be rejected. Absent strong trade remedy laws, it will be harder for U.S. companies and workers to compete fairly with subsidized and dumped imports. And, without effective and useable trade remedy laws on the books; market opening trade policies will lose the support of the American people.

H.R. 1121 and H.R. 2473 will undermine trade remedy laws in the ways detailed below. These bills are the type of controversial measures should not be included in a miscellaneous trade bill package.

Concerns about H.R. 1121:

- This bill proposes to repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"). CDSOA has strong bi-partisan support from Members of Congress and the public. Any attempt to repeal CDSOA would attract intense controversy and strong opposition.
- Under CDSOA, duties that are collected as a result of continued dumping or subsidization are distributed by the U.S. government to eligible domestic industries found to have been injured by dumped or subsidized imports.
- CDSOA has no effect on how dumping and subsidy rates are calculated or on how much in duties importers must pay. All it does is simply distribute collected monies when unfair trade practices by our foreign competitors do not cease. CDSOA distributes money only when dumping and subsidization continues after an order. If dumping and subsidization cease, no funds are collected or distributed.

Concerns about H.R. 2473:

- This bill proposes to weaken the antidumping law by deleting the word "entirely" from subparagraphs (A) and (B) of section 735(c)(5) of the Tariff Act of 1930. These provisions concern the calculation of the "all others rate."
- This proposal is not simply a technical change. In fact, it would make a significant and harmful change to the antidumping law by making it exceeding difficult in a large number of cases for the Department of Commerce to calculate an "all-others" dumping rate for non-investigated exporters.
- The "all-others" rate is the rate that applies to all exporters that were not investigated. It is calculated as the weighted average of the dumping margins calculated for those individual exporters that were investigated.
- Currently, Commerce does not include in the weighted average any margins based *entirely* on "facts available" data. Commerce does include in the weighted average margins based *partially* on "facts available." Margins based on partial facts available are not uncommon.
- "Facts available" data (data substituted for actual company-specific data) is applied by Commerce when an exporter fails to submit data required to calculate a dumping margin.
- H.R. 2473 proposes to prohibit Commerce from calculating the "all others" rate from any margins based on facts available, partial or entire. This would mean that, in many case, there would be no useable margins from which to calculate an "all others" rate.
- In substance, H.R. 2473 would weaken the antidumping law. H.R. 2473 would cause severe problems for Commerce in carrying out its statutory responsibilities to administer the antidumping law.

A Miscellaneous Trade Bill is Not the Vehicle to Implement WTO Panel or Appellate Body Decisions

Another reason to delete H.R. 1121 and H.R. 2473 from a miscellaneous trade bill package is that they are legislation designed to change U.S. law in response to controversial decisions by WTO dispute panels and Appellate Body. A non-controversial miscellaneous trade bill is not the appropriate vehicle to make such legislative changes to trade remedy laws.

These bills clearly respond to specific cases where WTO panels and its Appellate Body have engaged in overreaching their authority. On both the CDSOA and the "all-others" rate issues, Congress and the Administration have expressed displeasure with this WTO overreach. These and other WTO decisions have tried to impose on the U.S. obligations that were not negotiated and which are not apparent from the text of the WTO Agreements.

In addition, Congress has consistently told the Administration to work to seek a resolution of these controversial decisions through negotiations at the WTO. The Ad-

ministration is currently doing just that in the Doha Round negotiations. Both H.R. 1121 and H.R. 2473, if legislated, would interfere in these efforts.

In conclusion, H.R. 1121 and H.R. 2473 need to be expeditiously removed from the miscellaneous trade bill package. There is no reason to jeopardize the passage of the hundreds of other helpful and non-controversial bills contained in the package.

Lee Murphy
President/CEO

California Portland Cement Company
Glendora, California 91741
September 1, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to the Committee's July 25, 2005 Press Release, I am writing on behalf of California Portland Cement Company and its approximately 1000 employees to express our strong opposition to the inclusion of H.R. 1121 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 1121 is a highly controversial bill that would repeal the Continued Dumping and Subsidy Offset Act ("CDSOA"). It can by no means be fairly described as a "technical correction" to existing law.

California Portland Cement Company (CPCC) was established in 1891 and is headquartered in Glendora, California. CPCC operates three cement plants located in California and Arizona. We also operate 18 ready-mix concrete and concrete products plants in those two states.

In the late 1980's, our industry was severely damaged by dumped imports of cement from Mexico. The unfairly low prices of Mexican cement caused U.S. cement plants to close and took away any incentive to invest in new cement capacity. In 1990, the United States imposed antidumping duties on Mexican cement. Unfortunately, however, the dumping has not stopped. In fact, in the 13 administrative reviews conducted since the order was imposed, the Department of Commerce found that the dumping margin of CEMEX, S.A., the dominant Mexican producer, has averaged 63 percent. That means that even with the antidumping order in place, CEMEX's cement prices to customers in Mexico have been 63 percent higher than its cement prices to customers in the United States. The root cause of this unfair pricing behavior—a Mexican cement market that is closed to foreign competition—also has not changed since the antidumping order was imposed.

CDSOA both discourages continued dumping and also compensates the victims of such continuing unfair trade. The law merely provides that antidumping duties are distributed to the supporters of the original antidumping petition. If and when the dumping stops, so do the CDSOA distributions. Thus, CDSOA has no impact on fairly traded imports.

CDSOA distributions to date under the cement antidumping order have been very limited because the Mexican Government has refused to appoint NAFTA panelists to hear pending appeals of administrative reviews going back a number of years. It would be extremely unfair to U.S. cement producers to repeal CDSOA before these very old entries are liquidated and available for distribution. When distributed, these duties will help U.S. cement producers to invest in new production capacity and to create new jobs.

Contrary to what some consumers of unfairly priced imports have claimed, CDSOA has not led to the filing of frivolous antidumping petitions. In fact, the filing of new petitions has fallen sharply since CDSOA was enacted in 2000.

Finally, it makes no sense to repeal CDSOA while negotiators in Geneva are considering a U.S. proposal to amend the WTO Antidumping Agreement to clarify that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, your Committee should urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering these comments.
Sincerely,

James A. Repman
President and Chief Executive Officer

Canadian Embassy
Washington, DC 20001
September 1, 2005

Mr. E. Clay Shaw, Jr.,
Committee on Ways and Means
1102 Longworth Office Building
Washington, DC 20515

Dear Chairman Shaw,

In commenting on the proposed contents of the miscellaneous trade legislation, I wish to express the strong support of the Government of Canada for HR 1121, the bill to repeal the *Continued Dumping and Subsidy Offset Act of 2000* (CDSOA), also known as the "Byrd Amendment". I have termed CDSOA a type of bounty on trade, because it distributes anti-dumping and anti-subsidy duties collected to the firms that supported the trade remedy action. It was reviewed by the World Trade Organization (WTO) and, in January 2003, determined to be inconsistent with U.S. obligations under the Agreements governing anti-dumping and countervailing duties. When the U.S. failed to bring itself into compliance, Canada and seven other co-complainants were authorized by the WTO to impose retaliation.

As a result, from May 1, 2005, various U.S. goods are subject to retaliatory duties, pending repeal of the Byrd Amendment. WTO members who have taken that decision, including Canada, and others who are readying to do so, account for up to 71% of total U.S. exports and 64% of total U.S. imports.

"The longer Congress waits to repeal Byrd, the more American consumers and exporters will have to pay", wrote the Wall Street Journal earlier this month. In a March 2004 report, the Congressional Budget Office criticized the Byrd Amendment for subsidizing the output of some U.S. firms at the expense of others, as well as inciting the initiation and discouraging the settlement of trade remedy cases. That CDSOA does not make economic sense has been shown by domestic observers. More recently, on August 22, 2005, the Congressional Research Service of The Library of Congress released a report on the Byrd Amendment, in which it notes that the repeal of the Amendment". . . would do nothing to affect other U.S. AD or CVD laws, procedures or actions, and domestic industries would continue to benefits from these measures". This conclusion supports the WTO finding that the Byrd Amendment is an unjustified double remedy not provided for in the WTO.

In their most recent representation to the U.S. Administration, the eight co-complainants made the further point that "the dispute settlement system is a fundamental pillar of the WTO in providing security and predictability to the multilateral trading system." The failure by the United States, one of the world's leading trading nations, to comply with its WTO obligations, hurts the credibility of the system and the interests of its members, the United States included. Canada is aware that certain supporters of the Byrd Amendment have pressed for the negotiation of a Byrd-like provision in current WTO rules negotiations. Canada opposes the consideration of this issue in the negotiating process and reiterates that the repeal of the Byrd Amendment is the only alternative to WTO-sanctioned retaliation. The Canadian Government urges prompt enactment of HR 1121.

Frank McKenna
Ambassador

Carpenter Technology Corporation
Reading, Pennsylvania 19612
August 29, 2005

Committee on Ways and Means
Washington, DC

Dear Committee on Ways and Means:

Carpenter Technology Corporation is an integrated specialty steel manufacturer of stainless steel bar, wire, rod and billet products with manufacturing locations in

Reading, PA; Hartsville, SC; and Orangeburg, SC. We employ approximately 2,300 individuals across these three locations.

Carpenter Technology wants to voice its strong opposition to H.R. 1121 in the Miscellaneous Tariff Bill which calls for the repeal of the Continued Dumping and Subsidy Offset Act of 2000 (CDSOA). Secondly, Carpenter Technology also strongly opposes H.R. 2473, which alters the calculation of the "all others" rate in AD/CVD cases, thereby significantly reducing the amount of duties collected and distributed under the CDSOA.

The distribution of funds Carpenter Technology received under CDSOA has created opportunities to reinvest in our operations and marketing. Carpenter has a strong history of making capital investments in order to maintain and improve its production plants and equipment. The CDSOA funds have been very beneficial in that regard. Over the past five years since the CDSOA went into effect, the total amount of Carpenter's capital investments

has been enhanced significantly by the total amount received under the CDSOA. We are committed to continuing to improve our world competitive position in specialty steels and metals, and the CDSOA funds support that objective by restoring revenues that would have otherwise been lost as a result of foreign unfair trade practices.

Carpenter Technology expects Congress will actively support manufacturing jobs in the U.S. by opposing repeal of the CDSOA and by supporting the U.S. government's sovereign right to distribute taxes as determined by Congress. Congress must fight efforts to undermine the CDSOA in the World Trade Organization (WTO). Negotiations in the current multilateral Doha Round, not repealing the Byrd Amendment (CDSOA), is the most effective way to resolve the WTO dispute. It was Congress who requested that our trade negotiators in the ongoing Doha Round push for revision of the WTO agreements so that CDSOA and similar programs relating to individual countries' use of AD/CVD duties will be expressly accepted as WTO consistent.

Sincerely,

William A. Wellock
Manager—Consolidated Planning

Cattle Producers of Washington
Soap Lake, Washington 98851
September 2, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

The Cattle Producers of Washington (CPoW) is submitting these comments in response to the Subcommittee's request for written comments for the record from all parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. CPoW is a non-profit state cattlemen's organization dedicated to promoting the health and long term stability of independent producers in Washington State. Being a border state, international trade policies greatly affect the profitability and viability of our state's third largest commodity industry.

CPoW welcomes the opportunity to comment on the bills being considered for inclusion in the miscellaneous package, in particular H.R. 1121, "A bill to repeal section 754 of the Tariff Act of 1930," and H.R. 2473, "A bill to amend the Tariff Act of 1930 relating to determining the all-others rate in antidumping cases."

H.R. 1121 and H.R. 2473 are not well suited for inclusion in the miscellaneous trade package. These bills are likely to attract significant controversy and would constitute major changes to U.S. trade remedy laws. CPoW supports maintaining strong and effective trade laws. Such laws are necessary to ensure a level playing field for Washington State ranchers, cattlemen, and farmers, as well as Washington State manufacturers and workers. In a fair market, U.S. producers are second to none. When foreign competitors flood the U.S. market with dumped and subsidized goods, however, the trade laws must be in place to provide a remedy for injury caused by unfairly traded imports. CPoW believes it would be inappropriate to use

the miscellaneous trade bill to weaken those laws, but that will be the effect if H.R. 1121 and H.R. 2473 are included in the package.

H.R. 1121 proposes to repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"). CDSOA is a program that distributes antidumping and countervailing (AD/CVD) duties when dumping or subsidization continues after AD/CVD orders are imposed. The existence of continued dumping and subsidization indicates that fair market conditions have not been restored and that the industry that was found to be injured by dumped or subsidized imports is not getting the remedy intended by the statute. CDSOA funds are distributed to certain domestic parties for eligible expenditures on plant, equipment, and people, that is, for reinvesting in their businesses. The program is funded using duties collected on dumped and subsidized imports. If dumping or subsidization stops after an order is issued, there are no funds to distribute. CDSOA does not change how dumping margins or subsidy rates are calculated or how much duty must be paid. The program simply distributes moneys pursuant to generally applicable criteria when unfair trade practices do not cease. CDSOA enjoys wide bi-partisan support among Members of Congress and the public, and any legislation to repeal it would attract substantial controversy and strong opposition. Thus, CPoW believes that H.R. 1121 should not be included in the miscellaneous trade bill.

H.R. 2473 proposes to amend the antidumping law to delete the word "entirely" from subparagraphs (A) and (B) of section 735(c)(5) of the Tariff Act of 1930. While this may appear to be a small change, in reality, if enacted, H.R. 2473 could prevent Commerce from effectively enforcing the antidumping law. H.R. 2473 would make it virtually impossible for Commerce to calculate "all-others" dumping margins for non-investigated exporters in most cases. The "all-others" rate, which is applied to non-investigated exporters, is a weighted average of dumping margins calculated for individually investigated exporters. Margins based *entirely* on "facts available" data are excluded from the average under the current law. "Facts available" data is information Commerce uses as a substitute for actual company-specific data when a respondent company does not supply all the data necessary to calculate a dumping margin. Margins that are based only in part on facts available are used to calculate the "all-others" rate because many dumping margins calculated by Commerce are based on at least some "facts available" data.

H.R. 2473 would require Commerce to exclude all dumping margins based on any amount of "facts available" information from the "all-others" rate calculation. The effect of this would be, in most cases, that Commerce would be left with no margins to calculate an "all-others" rate. This would result in serious administrative difficulties for the Department, which would consequently weaken the antidumping law. Hence, H.R. 2473 is likely to attract significant controversy and would likely not be administrable by the Commerce Department.

CPoW is also concerned that H.R. 1121 and H.R. 2473 appear to be efforts to implement adverse decisions of panels and the Appellate Body of the World Trade Organization ("WTO"). The miscellaneous trade bill is not an appropriate means by which to implement such decisions and enact changes in major U.S. trade laws. Furthermore, Congress and the Administration have been critical of overreaching by WTO panels and the Appellate Body and have expressed concern that the decisions on CDSOA and the "all-others" rate, in particular, created new obligations that the United States never agreed to and which are not found in the text of any WTO Agreement. In addition, Congress has previously directed the Administration to negotiate a resolution of these disputes at the WTO. The Administration is currently engaged in the Doha Round rules negotiations and should be allowed to complete that process, which ought to result in a correction of the problems created by panel and Appellate Body overreaching.

Because H.R. 1121 and H.R. 2473 are both controversial bills that are likely to draw strong opposition, and because their enactment would cut short the ongoing process of negotiations at the WTO, the Subcommittee should deem them inappropriate for inclusion in the miscellaneous trade package.

Again, CPoW appreciates the opportunity to submit these comments and would like to thank the Subcommittee for taking into account CPoW's views on the three bills discussed above.

Respectfully submitted,

Chad Henneman
Executive Director

Censea Inc.
Northfield, Illinois 60093
August 29, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

On behalf of Censea Inc., I would like to thank you for the opportunity to comment on H.R. 1121, legislation to repeal the "Continued Dumping and Subsidy Offset Act" (CDSOA), commonly known as the Byrd Amendment. Our Company strongly supports this legislation's inclusion in the trade bill.

Our Company has been in business for over 50 years and is primarily an importer of seafood from throughout the world. We deal in many third world countries where seafood exports provide a critical piece of both the local and national economies. It has always been a source of pride to me that we can assist those people as they struggle to develop their economies and participate in worldwide free trade. Until the recent shrimp action was brought it was easy for me to expound on benefits of an economy and free trade. The Byrd Amendment appears to these people as protectionism at its worst and makes them question if the United States truly believes in free trade or only mouths the words.

We strongly believe that the group of domestic seafood processors that filed an antidumping petition with the Commerce Department and the U.S. International Trade Commission against imported shrimp from six countries was primarily motivated by the prospect of receiving Byrd money. In fact, law firms representing the plaintiffs used flyers marketing the prospect of Byrd monies to recruit petitioners for the shrimp case. When litigation is a better option then improving and changing your business, there is something seriously wrong with our system. As an industry we have encouraged the domestic producers to adjust their business to the changing world market conditions over the last twenty years. These pleas unfortunately fell on deaf ears.

Byrd payments were so prominent in the motivation for this case that when the domestic shrimp processors moved to have fresh shrimp removed from the scope of the investigation, shrimp producers (the fisherman) launched a lawsuit against the processors to protect their potential entitlement to Byrd monies.

We also believe that the domestic shrimpers' opposition to the current ITC Changed Circumstance Investigation for shrimp imports from Thailand and India, initiated by the ITC because of the devastation caused by the December 2004 Tsunami, is based on the fear of losing Byrd monies and shows a total lack of sympathy for the plight of these individuals.

Now that Commerce and the ITC approved the duties on shrimp imports from Brazil,

China, Ecuador, India, Thailand and Vietnam, importers must pay the duties

but, also face the unfair situation to see these funds transferred to the domestic industry as a reward for filing their lawsuit. U.S. businesses are sent the wrong message from our government: that trade protectionism makes a better business plan than modernization and that it is good business to litigate for profit.

The Byrd Amendment is a blatant subsidy to a very few companies that, far from assisting American manufacturing, actually undermines it. More than half of the Byrd Amendment payments in 2004 went to only nine companies, and more than 80 percent of the payments went to only 44 companies nationwide.

U.S. producers in a wide variety of sectors are now filing trade actions because they know they will be eligible for Byrd money. The Byrd Amendment adds additional punitive damage-like incentives to file cases, in that a victory enriches the filer beyond simply "leveling the playing field."

The Byrd Amendment is simply bad policy. The members of the domestic

shrimp industry who filed the trade petition will not be required to use Byrd monies that they receive to take the steps necessary to modernize or improve their competitiveness. Instead, they can count on receiving a government handout from shrimp imports without doing anything to improve their competitive position.

The Byrd Amendment was passed without consideration by the appropriate

committees of Congress and has done unforeseen injury to American companies. We request that you include H.R. 1121 in the miscellaneous trade bill and appreciate the opportunity to comment on this important issue.

Jeffery A. Stern
Vice President

Century Furniture
Hickory, North Carolina 28603
September 2, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to the Ways and Means Committee's July 25, 2005 Press Release, Century Furniture and its 1200 employees strongly oppose H.R. 1121 and its inclusion in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. The Continued Dumping and Subsidy Offset Act ("CDSOA") must be preserved to maintain effective remedies against unfairly traded imports. Congress should not treat its revocation as some sort of "technical correction."

Century Furniture is headquartered in Hickory, North Carolina and operates 7 furniture manufacturing facilities in Catawba County.

Unfairly priced imports from China contributed to the closing of over 65 U.S. wooden bedroom furniture factories during 2001–2004. These factories employed over 18,000 workers. Our industry's antidumping petition was opposed by over 30 law firms that represented the Chinese Government and over 100 Chinese companies. The Chinese Government even helped pay the legal fees of the Chinese companies. In 2004, we won our case, and the United States imposed antidumping duties to offset the dumped prices. Despite the antidumping order, however, we fear that some Chinese furniture exporters are continuing to dump their product in the United States at very low prices. They simply absorb the duties rather than adjust their prices to non-injurious levels as the law was intended

We need CDSOA to ensure that our antidumping order has its intended effect. CDSOA discourages foreign exporters from continuing to dump, because they know that their U.S. competitors are the ones that receive the duties they pay. In addition, if foreign producers choose to continue to dump, then CDSOA compensates the companies that are hurt by the continuing unfair trade practices. **CDSOA distributions will enable our company to preserve U.S. manufacturing jobs!**

One of the criticisms leveled at CDSOA is that it encourages the filing of frivolous petitions. This is completely untrue. CDSOA was certainly not the reason that our industry filed its antidumping petition. In fact, we understand that the number of cases filed has gone down considerably since CDSOA was enacted.

Finally, Congress should not consider repealing CDSOA at a time when negotiators in Geneva are considering a U.S. proposal to amend the WTO Antidumping Agreement to clarify that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, your Committee should urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering our comments.

Sincerely,

Robert J. Maricich
President and CEO

Robert K. Johnson
Senior Vice President of Administration

R. Terry Jennings
Plant Manager

Eric Schenk
Chief Operating Officer

James I. Johnson
Plant Manager

Statement of Robert John Becht, Chambers Truss Inc., Fort Pierce, Florida

The "Continued Dumping and Subsidy Offset Act of 2000," often called the "Byrd Amendment," allows for the distribution of CVD/AD deposits to affected U.S. producers who originally petition for trade remedies that result in the imposition of such duties. I am writing in support of H.R. 1121, and a repeal of this "Byrd Amendment."

My company produces structural building components—metal-plate connected wood trusses, wall panels and open-web floor joists—which are made primarily of softwood lumber and light gauge, galvanized steel connector plates. Our products are used mainly in residential homes across the country, as well as multi-family dwellings and light-commercial and agricultural buildings.

According to the International Trade Commission (ITC), 36% of the softwood lumber used in the U.S. comes from Canada. Based on our industry financial performance statistics, combined with a study done by the ITC, the structural building component industry's annual steel purchases are approximately 475,000 tons of steel in truss plates and an additional 130,000 tons in connectors.

Hence, my company's competitiveness and profitability are directly harmed by the protectionist trade remedies encouraged and exacerbated through the Byrd Amendment. Please allow me to offer the following observations:

Byrd Creates Perverse Incentive:

The Byrd Amendment is bad policy because it essentially creates a double benefit for targeted companies: first, through an increase in prices due to a tariff-induced reduced supply; and second, through the distribution of tariff dollars to the petitioning companies that already gain the benefit from the increase in prices.

As a consequence, the Byrd Amendment has simply encouraged additional U.S. companies to file more protectionist trade suits to reap the benefits of a direct payment from their marketplace competitors.

Byrd Encourages Protectionist Trade:

According to the World Trade Organization, as recently as 1997 only 15 antidumping cases were filed in the U.S., and only nine in the entire first half of 2000. But since the Byrd Amendment took effect, the numbers have climbed to 76 in 2001, 35 in 2002, and 37 in 2003.

Forty-four U.S. companies have each collected at least $1 million through the Byrd Amendment in 2004, and total assessed duties were over $284.1 million. From 2001 through 2004, U.S. Companies have benefited from more than $1.04 billion through this protectionist trade law.

Byrd Makes My Problems Worse:

First, as stated earlier, the Byrd Amendment encourages the filing of CVD/AD trade remedy cases. These trade tariffs artificially raise the cost of my raw materials, like softwood lumber and steel, which also leads to unnecessary uncertainty or restriction of supply.

Second, the Byrd Amendment makes it possible for nearly $4 billion in CVD/AD duties collected on the importation of Canadian softwood lumber to be distributed to U.S. petitioning companies. However, U.S. petitioning companies account for only 54 percent of U.S. softwood lumber production. This provides an unfair competitive advantage to these petitioning companies.

Third, the possibility of distribution created by the Byrd Amendment of this nearly $4 billion in CVD/AD duties makes a negotiated settlement of the softwood lumber dispute between the U.S. and Canada nearly impossible.

Byrd Unfair, Passed Unfairly:

The Byrd Amendment was passed as an add-on to a last minute appropriations bill, without consideration by the appropriate committees of Congress/

The Byrd Amendment creates harm to consuming industries like mine, and yet I have no ability to participate meaningfully in the trade cases the Byrd Amendment encourages. Repeal of the Byrd Amendment is an essential step in allowing consuming industries an opportunity to protect our trade interests.

Byrd Harms International Trade:

The WTO ruled the Byrd Amendment illegal two years ago, and in November 2004 it gave formal approval for Canada, Japan, the EU and four other jurisdictions to retaliate against the U.S. for refusing to amend or rescind the Byrd Amendment.

In March 2005, the Canadian government announced it would impose a punitive 15 percent duty, equaling $11.6 million annually, on targeted goods including oysters, live swine, specialty fish and cigarettes imported from the U.S. The EU announced similar punitive tariffs as well on paper, agricultural, textile and machinery products imported from the U.S.

Thank you for allowing me to provide my comments on H.R. 1121, please feel free to contact me if you have any questions or need for further information.

City Furniture
Tamarac, Florida 33321
August 29, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

On behalf of City Furniture, I would like to thank you for the opportunity to comment on H.R. 1121, legislation to repeal the "Continued Dumping and Subsidy Offset Act" (CDSOA), commonly known as the Byrd Amendment. Our company strongly supports this legislation's inclusion in the miscellaneous trade bill.

Headquartered in Fort Lauderdale, Florida, City Furniture has over 1,500 associates with annual sales over $300 million. Since our inception in 1971, we have established ourselves as a leader in the Furniture Retailing Industry, not only in South Florida, but in the nation. City Furniture offers excellent quality home furnishings—from the dining room to the bedroom to the home office—at outstanding values.

To achieve these values for families to enjoy, City Furniture sources products domestically and globally. To provide our customers with the quality and values they want, we source domestically what is best made in the USA, and source globally what is best made elsewhere. Though we love to sell "Made in the USA" (in fact, we own a factory in Mississippi that makes our Kevin Charles Fine Upholstery line), imported products sometimes provide our customers with styles and values they prefer.

In 2003, as you know, a group of domestic furniture manufacturers worked to restrict consumer access to affordable high quality wooden bedroom furniture by filing an anti-dumping petition against furniture from China with the Commerce Department and the International Trade Commission. We believe that some of these manufacturers filed the petition in order to line up to receive millions of dollars in special interest payments through the Byrd Amendment. I personally appreciate your past assistance and, once again, ask for your help.

Now that Commerce and the ITC approved the duties on Chinese wooden bedroom furniture, City Furniture not only must pay the duties, but also see the monies in the future transferred to some of the same manufacturers that petitioned for the duties. These duties also, unfortunately, raise prices for our consumers, and cause them to buy less furniture.

The Byrd Amendment actually helps very few companies. More than half of the Byrd Amendment payments in 2004 went to only *nine* companies, and more than 80 percent of the payments went to only *44* companies nationwide.

U.S. producers file trade actions because they know that they will be eligible for Byrd money. In this sense, the Byrd Amendment adds additional "punitive damage-like" incentives to file cases in that a victory enriches the filer beyond simply making them whole/leveling the playing field. U.S. companies in line to receive these payments also have a clear incentive to include more products within the scope of anti-dumping cases, including products not even made in the U.S., and to oppose ever eliminating any duty for fear of losing the Byrd money. Additionally, because the duties on the imported products are funneled to the petitioning companies, the Byrd Amendment creates a disincentive to produce the product subject to the duty in the U.S. Indeed, Byrd recipients can import the products from China themselves and be insulated from antidumping duties.

The Byrd Amendment is simply bad domestic policy. The furniture manufacturers who filed the trade petition will not be required to use the Byrd money they receive for job retraining or to improve their competitiveness. Instead, these companies can sit back and receive a government handout on every bedroom product imported into this country that goes right into their bottom-line. City Furniture's customers across Florida depend on having access to quality furniture for their homes at a reasonable price. We ask that the Trade Subcommittee consider the needs of retailers who import products, our associates, and our customers. The Byrd Amendment was passed without consideration by the appropriate committees of Congress and has done unforeseen injury to American companies.

As a matter of fundamental fairness, we ask that you include H.R. 1121 in the miscellaneous trade bill and once again applaud you for your leadership on this important issue.

Sincerely,

Keith Koenig
President

Statement of Barry Cullen, Coalition for Fair Lumber Imports

This statement reflects the views of the Coalition for Fair Lumber Imports (the "Coalition"), an alliance of large and small lumber producers from around the country, joined by hundreds of thousands of their employees, and tens of thousands of woodland owners. We appreciate the opportunity to submit this statement in anticipation of the Subcommittee's review of the proposed technical corrections to U.S. trade laws and miscellaneous duty suspension proposals.

The Coalition is united in opposition to the subsidization of Canadian lumber that has been found to be dumped into the U.S. market. These unfair trade practices by the Canadian government and lumber industry have caused significant hardship in the U.S. lumber industry and continue to threaten domestic lumber companies, their workers and communities, as well as thousands of timberland owners across this nation. The Continued Dumping and Subsidy Offset Act (CDSOA), or Byrd Amendment, is an essential component to remedy the injurious effects of unfair trade practices. The Coalition opposes the inclusion of H.R. 1121—a bill to repeal Section 754 of the Tariff Act of 1930, or more commonly known as the CDSOA—in the technical corrections and duty suspension bill package.

The U.S. Department of Commerce has repeatedly found that Canadian lumber is heavily subsidized and dumped into the U.S. market. These unfair trade practices stem from an estimated annual $3 to $3.5 billion U.S. dollar subsidy program instituted by Canadian provincial governments to maintain artificially high employment and production levels in their lumber industry. The subsidy program is possible because the Canadian provinces own the vast bulk of merchantable timber in Canada. The government price of Canadian timber is only a fraction of the market-determined price of identical timber in U.S. border regions. Canadian companies unload their excess production into the U.S. market at a cost of thousands of good-paying American jobs. Through subsidies and policies that induce uneconomical manufacturing, the provinces export production cutbacks, mill closures and job losses to the United States.

Despite having been repeatedly found to be dumping lumber into the U.S. market by the Department of Commerce, Canadian manufacturers are continuing to engage in this unfair trade practice. Furthermore, Canadian provinces are refusing to stop heavily subsidizing their lumber industry. The CDSOA is specifically designed to

offset the injurious effects of repeat violators of the antidumping and countervailing duty laws. The law provides crucial support to communities that have been decimated by such unfair trade practices, and is therefore essential to a broad range of manufacturing, agricultural, and fisheries industries across the United States.

The CDSOA is a pivotal component of the U.S. trade laws enforcement mechanism. It is designed to level the playing field for U.S. manufacturers who have been, or are threatened to be, injured by unfair trade practices. Congress must not repeal this essential law, either in the technical corrections and duty suspension bill package, or in any other legislation.

Committee to Support U.S. Trade Laws
Washington, DC 20007
September 2, 2005

The Hon. E. Clay Shaw
Chairman, Trade Subcommittee
Committee on Ways and Means
1102 Longworth House Office Bldg.
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing on behalf of the Committee to Support U.S. Trade Laws (CSUSTL) to express the Committee's strong opposition to inclusion of H.R. 1121 and H.R. 2473 in the package of miscellaneous tariff bills. CSUSTL believes that miscellaneous tariff legislation, which has traditionally included duty suspension bills and minor technical corrections, is decidedly not the appropriate vehicle for addressing changes in our trade laws stemming from adverse WTO panel and Appellate Body decisions.

CSUSTL is an ad hoc coalition with a broad-based membership comprised of U.S. companies, trade associations, agricultural producers, labor organizations, and law firms. CSUSTL's membership represents a cross-section of the American economy and spans most major sectors including manufacturing, technology, agriculture, mining, lumber, consumer products, energy, and services. CSUSTL supports the maintenance of strong and effective trade laws and believes that the changes to U.S. trade laws that would occur as a result of the repeal of the CDSOA provision (H.R. 1121) and the amendment of the method for calculating "all other rates" in antidumping proceedings (H.R. 2473) would significantly weaken the effectiveness of the trade remedy laws for the companies and workers we represent.

Congress has already made clear its direction that the Administration pursue negotiations within the Doha Development Round to resolve these issues, including clear language in the Trade Promotion Authority of the Trade Act of 2002, as well as the Consolidated Appropriations Bills in 2004 and 2005. The Administration itself has commented that such overreaching WTO decisions have created obligations that the U.S. has never agreed to in any prior WTO negotiation. U.S. negotiators should pursue the negotiations option to clarify the WTO-compatibility of U.S. practice with respect to distribution of AD and CVD duties and with respect to the calculation of the "all others rate".

This approach has strong Congressional support on both sides of the aisle. Consequently, the inclusion of H.R. 1121 and H.R. 2473 in a package of tariff bills is extremely controversial. They simply have no place in a bill in which debate is limited and which has typically been passed under suspension of the rules.

Sincerely,

David A. Hartquist
Executive Director

[By permission of the Chairman:]

Confederation of British Industry
London, United Kingdom WC1A 1DU
September 2, 2005

The Hon E. Clay Shaw
Chairman
Trade Sub Committee
House Committee on Ways and Means
1102 Longsworth HOB
Washington DC 20515

Dear Mr Chairman,

The Confederation of British Industry (CBI) is the United Kingdom's leading business organisation. It represents over 240,000 companies of all sizes and from all sectors of the British business community that together employ over one third of the private sector workforce. As you know well, UK companies are the largest providers of foreign direct investment in the U.S. and U.S. companies are the largest providers of foreign direct investment in the UK. Together with our significant trading partnership, this underlines the crucial importance of the U.K.–U.S. economic relationship.

We welcome the opportunity to comment on the intention to include HR 1121 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. CBI strongly supports HR 1121, which would repeal the Continued Dumping and Subsidy Offset Act, section 754 of the Tariff Act of 1930 (the Byrd Amendment).

CBI believes that repeal is necessary for the following reasons:

- business gets caught in the crossfire of trade disputes. Retaliatory action, when authorised by the WTO and implemented, can disrupt trade. It often affects sectors with little or no relevance to the original complaint. We are aware of CBI member companies, including U.S. subsidiaries in the UK, that have been disadvantaged by EU retaliatory action through the imposition of additional customs duties on imports from the U.S.
- we are on record as having opposed the introduction of the Byrd Amendment as being contrary to WTO rules and because of the potential it has to distort the market.
- practice has shown that the Byrd Amendment has established a double hit on companies in anti-dumping or countervailing duty cases. In addition to the duties collected in such instances, which are part of legitimate trade policy remedies, the monies are then distributed to the companies that brought the actions. This gives an additional benefit to those complainant companies which is, in effect, an anti-competitive subsidy.
- British business is a strong supporter of the WTO and the multilateral rules-based system. We believe that WTO rulings should be adhered to in order to avoid retaliatory action. In addition, it is vital that WTO members conclude on ambitious Doha Development Agenda (DDA) negotiation in 2006. The strong signal from the U.S. Congress that passage of HR 1121 would send should assist progress in these negotiations.

The CBI hopes that the Sub-Committee will favourably report out HR 1121 and that the U.S. Congress will then act swiftly to resolve this trade dispute. By doing so, we believe it will contribute to an enhanced transatlantic relationship and to positive benefits in emphasising U.S. leadership at the WTO.

As always, CBI would be happy to provide more information to assist the Sub-Committee if required.

Yours sincerely,

Gary J Campkin
Head, International Group

[By permission of the Chairman.]

The Confederation of the Food and Drink Industries of the EU
Brussels, Belgium
September 1, 2005

Dear Members of the Trade Sub-Committee of the Ways and Means Committee,

The Confederation of the Food and Drink Industries of the EU, CIAA, is the voice of the European food and drink industry. Our industry with an annual turnover of approximately 800 billion euro, is a major employer and exporter. The United States has been for many years been the main export destination for many EU food and drink products and in 2004, EU imports of U.S. food and drink products were worth 3 billion euro out of a total 40 billion.

CIAA closely monitored the implementation of the *U.S. Continued Dumping and Subsidy Offset Act* in October 2000, which diverts proceeds from anti-dumping and countervailing duty cases to U.S. companies that file a trade case. Since then, many European food and drink companies—and other WTO member countries whose industries export to the United States—feared not only market distortions by legal proceedings that subsidize a small number of companies, but more importantly a tendency to undermine the international rules-based system of the WTO.

A **WTO panel** was asked for clarification and the EU, together with eight other WTO members, welcomed the Appellate Body report on 27 January 2003, which clearly rejected the Byrd Amendment. However, CIAA regrets that no bill has passed the U.S. Congress to repeal the illegal practice in order to implement the ruling and comply with WTO rules. In the meantime, the EU imposed retaliatory measures. Although CIAA understands the political importance of retaliatory policies as imposed by the European Union on 1 May 2005 it can only be seen as a second-best and intermediate measure.

In response to your invitation for submission of written comments, CIAA wishes to express **strong support to the repeal of the Continued Dumping and Subsidy Offset Act** because,

- the Byrd Amendment is a clear breach of the WTO agreement and contributes to undermine the U.S. government leadership on international trade issues.
- it encourages U.S. producers to file WTO cases with the only objective to receive money from these legal proceedings which is equivalent to a subsidy;
- EU exports have become difficult for products affected by the offset payments under the Byrd Amendment and has threatened exports of certain food products (for example pasta);
- retaliatory sanctions have increased companies' costs for importing sweet corn from the U.S. by 15 %. Should these sanctions be maintained, companies may look to secure alternative sources of supply.

CIAA members support an international rules-based trading system for import and export that is predictable, consistent and stable, and that relies on competition and market forces and not on unilateral trade actions.

Yours faithfully,

Daniela Israelachwili
Director General

Consumers for World Trade
Washington, D.C., 20036
August 11, 2005

The Hon. E. Clay Shaw
1236 Longworth House Office Building
Washington, DC 20515
Fax: 202–225–8398

Dear Chairman Shaw,

On behalf of the Board of Directors of Consumers for World Trade (CWT) and our members, I would like to express our strong support for the inclusion of H.R. 1121, legislation to repeal the Continued Dumping and Subsidy Offset Act (CDSOA), in the miscellaneous trade bill.

CWT is a national, non-profit, non-partisan organization, established in 1978 to promote consumer interests in international trade and to raise public awareness of the benefits of an open, multilateral trading system. CWT is the only consumer

group in America whose sole mission is to educate, advocate and mobilize consumers to support liberal trade policies.

We support repeal of the CDSOA (aka "Byrd Amendment") because:

- American consumers pay twice for many products as a result of the Byrd Amendment. They pay the increased price of the product that results from the imposition of extra duties on imports, and as taxpayers they pay a select few companies duty revenues that should be going into the general treasury of the United States to fund our Federal budget. This is a significant cost—over a billion dollars to date, and potentially many billions more in the future if the Byrd Amendment is not repealed.
- The Byrd Amendment forces American companies that depend on imported products—from direct importers to processors to wholesalers and retailers—, to subsidize those companies that participated in anti-dumping and countervailing duty petitions. Companies that choose not to participate in such cases are penalized essentially because they choose not to seek protection.
- The Byrd Amendment money goes to a very small number of companies. More than half the Byrd Amendment payments in 2004 went to only *nine* companies, and more than 80 percent of the payments went to only *forty-four* companies. This is the worst kind of corporate welfare because it rewards a few companies, and thus distorts the competitive structure in an entire sector, in favor of companies who rely on protection.
- The Byrd Amendment places no realistic or practical restrictions on the use of the government subsidies it authorizes. Allocation of Byrd Amendment money is based on "qualified expenditures," which are not monitored or audited by Customs or any government agency. It is simply additional cash for which the recipients do not have to account once they have been paid.
- The possibility of receiving Byrd payments creates a powerful incentive for filing antidumping and countervailing duty cases. U.S. companies are encouraged to file trade actions knowing full well that they will be eligible for Byrd money. U.S. companies in line to receive these payments have a clear incentive to include more products within the scope of anti-dumping cases, including products not even made in the U.S.
- The United States relies on an open global trading system for our export sales and our purchase of inputs. The Byrd Amendment undermines the rules-based trading system, invites our trading partners to close parts of their markets to U.S. exports in retaliation, and increases the cost of imported inputs under antidumping orders.
- The Byrd Amendment is a blatant WTO violation, and U.S. trading partners are now imposing or have announced they will impose hundreds of millions of dollars in retaliatory duties on U.S. exports. The EU and Canada have already imposed sanctions on our exports, Japan has announced a target product list, and other plaintiff countries are about to do so as a result of the failure of Congress to repeal this WTO-illegal measure.

Given the serious domestic economic and international trade problems created by the Byrd Amendment, CWT urges all members of the Trade Subcommittee to support inclusion of H.R. 1121 in the miscellaneous tariff bill. This corporate entitlement program is simply bad policy and must be repealed before it does further damage to the pocketbooks of U.S. consumers. It is essential that it be repealed.

Yours truly,

Maureen Smith
President

Consuming Industries Trade Action Coalition
Washington, DC 20036
August 29, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing on behalf of the Consuming Industries Trade Action Coalition ("CITAC") in response to the Subcommittee's request for comments on pending miscellaneous tariff and trade legislation (Trade Subcommittee Press Release, July 25, 2005). CITAC is a coalition of companies and trade associations that supports reform of trade laws and policies to take account of the interests of consuming industries in America.

CITAC appreciates the opportunity to comment on HR 1121, legislation that would repeal the "Continued Dumping and Subsidy Offset Act," commonly known as the Byrd Amendment. We strongly support the inclusion of the Byrd Amendment repeal bill in the Chairman's Mark of the Miscellaneous Tariff Bill. For the reasons stated in this letter, the Byrd Amendment should be repealed as quickly as possible.

This law, in effect since October 2000, has put more than a billion taxpayer dollars in the pockets of a very small number of corporations, but has not served a larger public policy purpose. It is bad policy because it does not require any recipient to perform any worthwhile activity and little if any worthwhile activity has resulted from the payment of these sums of money.

In addition, repeal of the Byrd Amendment is required because the World Trade Organization ("WTO") correctly found the Byrd Amendment inconsistent with U.S. international obligations. Thus, repeal of the Byrd Amendment is both good public policy for the vast majority of U.S. manufacturers and is essential for the United States to comply with its obligations and to maintain its position of leadership on trade matters in the WTO. Repeal is a win-win proposition for the United States.

Many consuming industries rely on imports of raw materials or components to maintain global competitiveness. The Byrd Amendment provides a double hit on importers of products subject to antidumping and countervailing duties. Importers must pay these duties which, because of the "retrospective" system of duty collection, are uncertain in amount; the risk of high duties discourages imports whether or not they are fairly traded and thereby harms consumers. In addition, foreign producers must see these duties transferred to their U.S. competitors. Thus, U.S. consuming industries are hurt twice: first by the uncertain amount of duties discouraging imports, and second by the subsidy to competitors, further discouraging imports. Additionally, these duties trickle down to the average American consumer and often cause them to purchase fewer products. The net result is that imports of vital raw materials slow, and economic activity and jobs march overseas, putting more Americans out of work.

Byrd Amendment recipients—naturally interested in maintaining their cash flow—argue that enriching them serves a larger public interest. We strongly disagree, for the following reasons:

Despite some protestations to the contrary, the Byrd Amendment creates a clear incentive to file antidumping and countervailing duty cases. We have seen this in the five years since the law was passed: cases that were or are marginal in their marketplace effects, such as shrimp, color TVs and wooden bedroom furniture have been filed solely or largely to cash in on Byrd Amendment distributions. U.S. companies in line to receive these payments have a clear incentive to include more products within the scope of cases, including products not even made in the United States. Consumers see cases filed because of the promise of Byrd money (such as the infamous shrimp case). Other cases include products not produced here, such as certain antifriction bearings (e.g., certain metric sizes and metallurgical requirements); and steel wire rod for "cold-heading" and manufacture of wire for tire cord.

We reject the idea that comparing the number of petitions filed before and after the Byrd Amendment was passed is probative of whether the law has created an incentive to file. The prospect of money creates the incentive; that cannot be denied. Obviously, the number of petitions filed before and after October 2000 was determined by prevailing economic conditions. If the number of petitions went down, it was not because of the Byrd Amendment, but despite it. We urge the Subcommittee similarly to reject the Byrd proponents' specious argument.

Despite its label as the "Continued Dumping and Subsidy Offset Act," the law seems to do little to reduce the level of dumping margins. These margins, calculated by the Commerce Department, are based on information provided long after importations occur, frequently laced with "facts available" not based on the respondent's own information. If anything, the practices of the Department of Commerce have become more draconian and anti-consumer since the Byrd Amendment was passed.

Byrd Amendment funds go to a select few companies. In 2004, more than half of the $284 million in distributions went to just nine companies. In both 2002 and 2003, more than half the money went to just two companies. It is simply not credible that distributions to such a narrow group of beneficiaries could make any difference to the U.S. manufacturing economy.

Byrd Amendment distributions treat different U.S. producers differently, depending upon whether they supported a petition or not. In the candle market, for example, a small number of companies receive huge windfalls from the Byrd Amendment, putting all other U.S candle makers at a competitive disadvantage.

The prospect of Byrd Amendment money discourages settlement of antidumping and countervailing duty cases through suspension agreements, and creates an incentive for petitioners to broaden the scope of cases, often including products not even made in the United States or made in inadequate quantities. As a result, cases are broader, last longer and do more damage to consuming industries.

Those who filed and support trade petitions are not required to use the Byrd money they receive for capital investments, job creation, worker retraining or improving U.S. competitiveness. Indeed, there are no provisions in the law for any particular use for these funds. These companies receive a government handout and may insert the funds directly into their bottom lines.

Byrd Amendment distributions can actually encourage the loss of American jobs offshore. Large U.S. Byrd Amendment recipients, for example the Timken Company, import products from countries that are subject to dumping orders. Their Byrd Amendment distributions can offset the dumping duties paid, giving the company an exemption from the impact of antidumping laws. They, unlike non-Byrd recipients, can import dumped products from their affiliates overseas without having to bear the financial burden of antidumping duties, since the U.S. government reimburses them.

Repealing the Byrd Amendment will not undermine the purpose of the antidumping and countervailing duty laws. The imposition of duties by the U.S. government is intended to equalize market conditions in the United States. Paying money to private companies has never been the purpose of the antidumping and countervailing duty laws. Repealing the Byrd Amendment will leave the original, WTO-legal purpose of these laws entirely intact.

Congress must consider repeal of the Byrd Amendment as quickly as possible. The inequities suffered by U.S. consuming industries are real and growing. Moreover, the specter of retaliation by our aggrieved trading partners is increasing. While the largest annual Byrd Amendment distributions totaled a little over $300 million, the possibility of softwood lumber duties being distributed would put the United States in a position of absorbing nearly $5 billion in retaliation that could devastate consuming industries throughout the United States. Congress can avoid this looming catastrophe by acting promptly to repeal the Byrd Amendment.

We see no prospect at all for a "negotiated" agreement in the WTO allowing the Byrd Amendment to become a legitimate antidumping or countervailing duty tool. The congressional "instruction" to "negotiate" legitimization of the Byrd Amendment has borne no results. Moreover, legitimizing the Byrd Amendment at the WTO, even if it were possible, would not alter the fact that it is bad policy for the United States economy and the American people.

We urge the Committee to incorporate the legislation introduced by Mr. Ramstad and Mr. Shaw into the Miscellaneous Trade Bill and to attach it to any viable legislation to assure its being enacted without delay. This bill was adopted in the dead of night—it should be repealed in broad daylight with the greatest possible speed.

We appreciate the opportunity to supply these comments for the Subcommittee.

Sincerely,

Michael I. Fanning
Chairman

Contessa Premium Foods, Inc.
San Pedro, California 90731
August 31, 2005

Honorable E. Clay Shaw, Jr.
Chairman, Trade Subcommittee
United States House of Representatives
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

I am writing on behalf of Contessa Premium Foods, Inc. ("Contessa") to strongly support H.R. 1121 and your efforts to repeal the Continued Dumping and Subsidy Offset Act (the "Byrd Amendment").

The Byrd Amendment has devastating economic effects on a broad range of U.S. companies. Many businesses like Contessa have been unfairly penalized by alleged "antidumping" petitions filed by a small number of our competitors and their lawyers who are motivated by the Byrd Amendment's lucrative kick backs. Insidiously, the Byrd Amendment allows antidumping margin payments to be transferred from us to our competitors. It is a blatant subsidy to a very few that must be ended.

The Byrd Amendment is the epitome a domestic policy that has totally failed to serve its purpose. In fact, a majority of American companies don't derive any benefit from the payments provided. **It's shocking to know that more than half the Byrd Amendment payments in 2004 went to only nine (9) companies.** Eighty percent (80%) of these payments went to only forty-four (44) companies. The handful of companies that received payments are not even required to use it to take the necessary steps to modernize, improve or be more competitive. Although payments are supposed to be used for "qualified expenditures", such use is not monitored by anyone in Congress. It's no wonder the Byrd Amendment is seen as a fabulous windfall for the fortunate few.

The United States economy derives its strength from the support of our trading partners. Nevertheless, the Byrd Amendment ironically exposes U.S. companies to trade retaliation by these same partners. Based on the unfair effects of the Byrd Amendment, other countries are compelled to impose the same or similar import duties on U.S. products. For example, one of the United States staunchest allies, Japan, has already warned that they will be forced to impose at least a fifteen percent (15%) duty on U.S. steel and other products. We already know that the Byrd Amendment has been ruled unlawful by the World Trade Organization, yet we've done nothing to eliminate its prohibited practice. Other countries now have the right to impose a total of $150 million in economic sanctions. We must remove the Byrd Amendment before more damage is done.

The illicit windfall provided by the Byrd Amendment fuels the urge to file antidumping petitions. In this sense, lawyers and others have recognized that the Byrd Amendment almost automatically guarantees large punitive damages against U.S. companies. However, it does nothing to "leveling the playing field". Instead, the Byrd Amendment makes few companies and their attorneys undeservedly rich. This is a calculated legal scheme to fleece a majority of American businesses by using the Byrd Amendment as its linchpin. Unfortunately, the ultimate consequence is that U.S. consumers continue to pay higher and higher costs for a wide array of products directly because of the effects of the Byrd Amendment. This must end.

For Contessa, the impact of the Byrd Amendment is very real and damaging to our business. Now that the U.S. International Trade Commission has approved antidumping margins on shrimp imports, Contessa must make payments every time we import products for distribution to our valued U.S. customers or for further processing in our U.S. based production facilities. Adding insult to injury, Contessa and many other companies are forced to sit idly by while watching our payments being spent by a domestic industry that has failed to modernize or be competitive for over twenty (20) years. This is a blatant and unjust reward that must be eliminated.

The Byrd Amendment passed without adequate consideration by the appropriate committees of Congress. It continues to inflict injury on many American companies just like Contessa while unjustly benefiting a few. It is extremely important for Congress to realize this fact and take action to do away with the Byrd Amendment.

Contessa and our many U.S. employees strongly urge you to include H.R. 1121 in the Miscellaneous Trade Bill during this secession of Congress. Please do not hesitate to let me know what we can do to help make H.R. 1121 a reality.

Sincerely,

Gregory J. Morrow
General Counsel

Copeland Furniture
Bradford, Vermont 05033
August 31, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

Our industry has been inundated with a virtual flood of unfairly priced imports from China over the last 5 years. Over the long-haul market forces can correct this condition, but only if the American wooden bedroom furniture industry survives this onslaught of subsidized dumping. CDSOA distributions are a crucial component to the effort of maintaining U.S. manufacturing jobs in the interim. Without the CDSOA remedy, more jobs will evaporate—in addition to the 18,000 already lost. If that happens, it is difficult to imagine a scenario whereby the furniture industry jobs will be restored in this country. The individuals who do those jobs have developed unique skill sets, which are not particularly transferable to other professions outside of woodwork manufacturing. In many cases their only options would be to step down to lower paying service jobs, or worse yet, become unemployed.

The rapidity with which this dumping activity has grown to its current scale is extraordinary. Since 1999 imports from China have rapidly increased their share of the U.S. market. It is not realistic to expect individual American companies to weather this onslaught of unfair competition without some modest level of remedy.

Our company, Copeland Furniture, is located in Bradford, Vermont. We employ 100 people. The impact of unfairly dumped wooden bedroom furniture has impacted us in two distinct ways: 1.) Over the last several years we have seen 35% of our business displaced by unfairly priced imports. 2.) Consumer price expectations have become increasingly denominated by product that is subsidized by the Chinese government. Our strategy to compete has been to offer superior design, continually improve quality and service and to cater to a segment of the market that values design higher quality domestically made product. We've been successful in that we have managed to replace the sales volume lost to dumped product. However, like most of the rest of the industry, the flood of low priced products has made necessary price increases a very difficult sell, putting a tremendous strain on our bottom line.

CDSOA distributions will be a critical component to Copeland Furniture's survival and to the jobs it provides. The management and employees of Copeland Furniture strongly oppose H.R. 1121 and its inclusion in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills.

Yours truly,

Timothy E. Copeland

Copper & Brass Fabricators Council, Inc.
Washington, DC 20036
September 2, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

This statement is submitted on behalf of the Copper & Brass Fabricators Council, Inc. and its member companies to express the Council's opposition to the passage as a part of the Miscellaneous Tariff Bill of H.R. 1121 calling for the repeal of the Continued Dumping and Subsidy Offset Act (CDSOA) and H.R. 2473 which would alter the calculation of the "all others" rate in antidumping and countervailing duty cases in a way that would significantly reduce the amount of duties collected and distributed under CDSOA.

The Copper and Brass Fabricators Council is a trade association that represents the principal copper and brass mills in the United States. The 20 member companies together account for the fabrication of more than 80% of all copper and brass mill products produced in the United States, including sheet, strip, plate, foil, bar, rod, and both plumbing and commercial tube. These products are used in a wide variety of applications, chiefly in automotive, construction, and electrical/electronic industries.

Council member companies employ more than 14,000 workers in good paying jobs. Appendix A lists the members of the Council and the addresses and congressional district of each headquarters and manufacturing facility operated by Council members together with the number of workers at each location. Also attached is Appendix B which contains legal analysis supportive of the Council's position.

CDSOA enables Council members injured by unfair foreign trade to invest in their own companies and workers. Under CDSOA, import duties are distributed to U.S. manufacturers and workers who have supported successful trade cases against unfairly traded imports when dumping or unfair subsidization continues after an order is issued. All Council member companies have benefited from CDSOA distributions.

For those anxious to end CDSOA distributions the solution is simple and does not require legislation; simply stop illegal dumping and subsidies.

With respect to the CDSOA decision in which the WTO improperly overstepped its authority, in FY 2004 and FY 2005 both Houses of Congress directed the Bush Administration to negotiate a solution to the problem. Pursuant to those directives the Administration has stated to the WTO that it was "beyond question that countries have the sovereign right to distribute government revenues as they deem appropriate". That is all CDSOA does, it does not change legally authorized dumping and countervailing duties by a single penny.

There is also a mistaken belief that the WTO found the CDSOA to be an illegal subsidy. The claim that the CDSOA was an actionable subsidy causing adverse trade effects was, however, rejected by the WTO panel and not appealed.

Similarly, those who are opposed to CDSOA make the claim that it provides an incentive for domestic companies to file baseless antidumping or countervailing duty petitions. Such claims are simply unsupported by the record. The highest number of cases filed in recent years occurred in 1992, eight years prior to passage of the CDSOA. Case volumes since CDSOA became law are comparable in number to the volume filed before the law. The main influence on case volume actually appears to be the general level of economic activity in a given market with weak economic conditions giving rise to a higher level of case filings. In the last six months of 2004 only five cases were filed and that trend has continued in 2005. Nor is there any indication that court challenges to the ITC and DOC proceedings have increased thus disproving an alleged rise in so-called frivolous lawsuits.

The Trade Act of 2002 highlighted the ongoing pattern of overreaching by the WTO which is creating obligations never agreed to by the United States. The Congress and the Administration should continue working to ensure that the WTO dispute regarding CDSOA is resolved in ongoing negotiations in Geneva. The Council and its member companies strongly oppose repeal or modification of CDSOA in the U.S. Congress.

We appreciate your consideration of our comments in this matter which is of great importance to the Council and its members.

Very truly yours,

Joseph L. Mayer
President & General Counsel

Council Tool
Lake Waccamaw, North Carolina 28450
August 30, 2005

Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Ladies and Gentlemen:

I am writing on behalf of Council Tool Company Inc. and the 50 some families whose livelihood is derived from this operation. Located in Lake Waccamaw, North Carolina, we are a family owned and managed manufacturing firm which produces

heavy forged hand tools. We have provided continuous employment in this area since 1886.

Please let the record show that all stockholders, managers and hard working employees of this company strongly oppose H.R. 1121 in the 2005 Miscellaneous Tariff Bill, which calls for the repeal of CDSOA as well as H.R. 2473 which alters calculation of the "all others" rate in certain cases. Both of these bills are detrimental to the interests of Council Tool Company and specifically it's employees as well as domestic manufacturing in general.

Council Tool is able to benefit from CDSOA because of an ITC ruling in 1991 declaring much of the product produced in mainland China to be dumped and the domestic industry injured. Subsequently we have suffered through and to date weathered unfair Chinese competition for at least fifteen (15) years. Many of our domestic competitors have not. They are out of business or sent the manufacturing jobs offshore.

We have only recently benefited from a distribution and I can unequivocally state that our operation is much more stable and becoming more efficient as a result of the benefits of same. With the exception of state and federal income taxes, virtually one hundred (100) percent of the income this company received under our one distribution has stayed in the operation. For example:

- We strengthened our balance sheet, allowing the company to survive unprecedented metal, energy and transportation markets over the last 18 months or so. Steel is the largest material component in much of our product line. Because of the time lag in passing along **dramatically** increased costs—steel, fuel oil, electricity, propane, motor freight—this created significant margin problems. CDSOA funds allowed us to weather the aforementioned market conditions without adverse debt costs.
- We were able to acquire several new pieces of induction heating equipment which we simply would not have considered without the monetary distribution. With induction heating we are able to heat steel to high temperatures electrically very quickly as opposed to fuel fired furnaces. This increases the pace of the operation, reduces the actual cost of heating the steel and is certainly a more comfortable atmosphere for the operators of the equipment. This type of equipment, while more efficient and productive—is not inexpensive. Acquisition costs of new equipment of this sort are several hundred thousand dollars each plus installation and ramp up costs. With CDSOA funds we were able to purchase several new units—not used—and we purchased sizes we needed, not what we could get by with. Faced with extremely thin to non-existent margins (**due to imported products of Chinese origin**) we would not have considered this without the CDSOA funds.
- Additionally because of the distribution, we were able to acquire—without debt—several pieces of ancillary equipment used in the production of our tooling. Precision surface grinders and cadcam software. These are new, current technology, and capable of delivering increased precision and repeatability to our tooling efforts. The operation is stronger and more stable as a result.

We are confident there are no more than three operations left in the U.S. which produce similar products. All are involved with CDSOA and although I certainly do not pretend to speak for them, I can easily imagine that there would be less than three remaining without CDSOA. In addition to traditional channels of distribution, we manufacture items under contract for the U.S. Forest Service, General Services Administration as well as various military specialty requirements. While these products may not be considered "high tech", they are necessary and vital and it would seem important that some degree of this kind of manufacturing technology remain in this country. For information purposes, several months back, we responded to an internet solicitation from a comparable Chinese manufacturer. We asked for pricing for several completed products. The f.o.b. China port pricing was generally less than or within a few cents of our domestic steel component cost. Without CDSOA, this could be considered impossible competition.

It is my hope and the hope of all of our taxpaying employees and that Congress will actively support domestic manufacturing. The conditions under which domestic employers must attempt to remain competitive with foreign, particularly Asian firms and most particularly mainland China make it increasingly difficult to compete. Continued environmental and safety regulation "creep" along with sharply increased costs for employer provided group health insurance and employer provided workers compensation insurance are a few issues which come to mind. I can only provide an opinion into my small industry. Repeal of or weakening of CDSOA will only have negative consequences on those U.S. citizens currently employed here producing heavy forged hand tools. In our case, we have a large portion of our work-

force with seniority of fifteen (15) to thirty (30) years. These people work **HARD**. We hope that Congress will look out for their interests and for the interests of other U.S. manufacturers who provide basic manufacturing employment in this country.

Free trade is good public policy. Unless the playing field is relatively level, it is not fair trade. It seems to us that what CDSOA is doing is allowing injured U.S. manufacturers to continue to exist, strengthen their operations and continue to provide employment with benefits to American citizens.

North Carolina has been a particularly hard hit state in recent years due to the significant migration of manufacturing jobs to other countries. Our county (Columbus) has been designated economically depressed. As we have for the last one hundred and nineteen (119) years, we want to continue to manufacture products of superior quality and value. In this way we can continue to provide jobs and stability in our community.

Thanking you in advance for allowing us to contribute to this process.

Sincerely,

John M. Council III
President

Crawfish Processors Alliance
Breaux Bridge, Louisiana 70517
September 2, 2005

The Hon. E. Clay Shaw
Chairman, Trade Subcommittee
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

On behalf of the Crawfish Processors Alliance ("CPA") and its 25 member companies, I am writing to express our strong opposition to the inclusion of H.R. 1121 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 1121 is an extremely controversial measure that would repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"). Such a measure has no place in a "technical corrections" bill.

The CPA's members are processors in Louisiana of freshwater crawfish tail meat, a mainstay of Cajun cuisine and an important part of Louisiana's unique culture. The financial health of the crawfish processing industry translates directly into substantial investment in local employment, new purchases of equipment, jobs for employees in the processing plants, and income for the many independent fishermen in Louisiana who supply the plants with live crawfish. Repeal of the CDSOA would bring immediate and catastrophic harm to Louisiana's families and communities at a time when they already must face the challenge of rebuilding from Hurricane Katrina.

In 1997, the U.S. Department of Commerce found that Chinese crawfish exporters were engaging in illegal international price discrimination by "dumping" their merchandise in the U.S. market at prices of $3.00 or less per pound. The same year, the U.S. International Trade Commission determined that such dumping had caused material injury to Louisiana's domestic crawfish industry, which had typically sold the product at $5.00 to $7.00 per pound. Consequently, an antidumping duty order was issued in September 1997, imposing antidumping duties of up to 201.63% (later increased to 223.01%) in order to neutralize the harmful effects of the price discrimination.

Prior to enactment of the CDSOA, many domestic processors lost their businesses as their Chinese competitors continued to engage in dumping despite the high duty rates. With prices for tail meat so low, crawfish harvesters who had previously supplied the processors saw the bottom drop out of the market for their live crawfish as well. The damage caused to families throughout Louisiana's crawfish country was widespread and deep. The CDSOA, enacted in 2000, has played a crucial role in reversing these trends.

For the Chinese exporters who object to the distribution of duties under the CDSOA, there is a simple solution: *stop dumping.* The antidumping law allows every importer to reduce its antidumping duty to zero upon showing that the affected merchandise was not, in fact, sold at a dumped price. Monetary distributions to affected domestic producers are possible *only* when the foreign exporters insist

on continuing their dumping behavior—a behavior that has been disfavored for decades under GATT/WTO rules.

A miscellaneous trade bill, traditionally used for bundling product—or country-specific duty suspension measures and uncontroversial technical corrections, is an improper vehicle for addressing the efficacy and appropriateness of the CDSOA. Moreover, the Administration is currently engaged in negotiations in Geneva regarding a U.S. proposal to clarify WTO rules to ensure that the CDSOA is regarded as WTO-consistent, and Congress has specifically directed the Administration to negotiate a solution to this issue as part of the Doha Round. Thus, the proposal to repeal the CDSOA not only is inappropriate in the context of a "technical corrections" bill but also is premature and undermines the credibility of the Administration in ongoing trade negotiations.

Louisiana's hard-working families and small businesses, already ravaged by Katrina, can ill afford the additional economic devastation that passage of H.R. 1121 would create. At a minimum, their concerns are entitled to a full and fair hearing and should not be swept carelessly under the rug of the "technical corrections" rubric. We therefore request that H.R. 1121 be excluded from the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills.

Adam J. Johnson
President

Members of the Crawfish Processors Alliance:

A&S Crawfish
Eunice, LA 70535

Acadiana Fishermen's Cooperative
Breaux Bridge, LA 70517

Arnaudville Seafood Plant
Arnaudville, LA 70512

Atchafalaya Crawfish Processors
Breaux Bridge, LA 70517

Bayou Land Seafood, LLC
Breaux Bridge, LA 70517

Bellard's Crawfish Plant, Inc.
Opelousas, LA 70570

Blanchard's Seafood, Inc.
St. Martinvillle, LA 70582

Bonanza Crawfish Farm, Inc.
Breaux Bridge, LA 70517

CJL Enterprise, Inc.
Breaux Bridge, LA 70517

Cajun Seafood Distributor, Inc.
Breaux Bridge, LA 70517

Catahoula Crawfish, Inc.
St. Martinville, LA 70582

Choplin Seafood
Duson, LA 70529

Clearwater Crawfish, L.L.C.
St. Martinville, LA 70582

Crawfish Enterprises, Inc.
Eunice, LA 70535

Dugas Seafood
St. Martinville, LA 70582

Harvey's Seafood
Abbeville, LA 70510

Louisiana Seafood Co.
St. Martinville, LA 70582

L.T. West, Inc.
Mamou, LA 70554

Phillips' Seafood
Bayou Pigeon, LA 70764

Prairie Cajun Wholesale Distributors
Eunice, LA 70535

Randol, Inc.
Lafayette, LA 70508

Riceland Crawfish, Inc.
Eunice, LA 70535

Seafood International, Inc.
Breaux Bridge, LA 70517

Sylvester's Crawfish
Bunkie, LA 71322

Teche Valley Seafood
St. Martinville, LA 70582

Dak Americas LLC
Charlotte, North Carolina 28209
August 31, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

DAK Americas LLC strongly opposes the inclusion of H.R. 1121 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills currently being proposed. DAK Americas, like many other companies in the U.S., is working hard to stay competitive and successful in the ever-challenging global trade environment present today. The essence of fair trade is the foundation of the U.S. economy and that which drives trade laws that are enacted to protect the many facets of trade itself. Repeal the Continued Dumping and Subsidy Offset Act ("CDSOA") is yet another action that would disadvantage the very industries and companies that have already suffered from the results of unfair trade practices in international trade.

Is it not enough that industries and companies in the U.S. must actively police their own markets for signs of lost business and sales resulting from unfair trade practices of importers? *Is it not enough* that on top of losing sales and revenue to unfair pricing and trade practices that industries and companies must then bear the burden of significant cost and time to defend their businesses against trade violators before the Department of Commerce and the International Trade Commission? And lastly, *is it not enough* that once the unfair practices have been defined and acknowledged by the appropriate governmental agencies and penalties put in place that the victims of these acts of unfair trading be justly compensated in a fair and timely manner for the losses they have suffered that undermine their ability to remain competitive?

Enough is enough! Please continue to support U.S. Business and Industry and at the same time continue to open up the U.S. Economy to World Trade. "Fair" competition is not feared and what is fair is that those who violate our international trade laws pay a penalty and those who suffer losses from unfair trade actions should continue receive due compensation for the actions that were taken to protect their very businesses and markets.

Furthermore, It is our belief that it is a duty of Congress to actively support and protect manufacturing jobs in the U.S. against unfair trade practices. Rejecting efforts to repeal the CDSOA is indeed one of the best ways of supporting such a duty. Moreover, it is theU.S. government's sovereign right to distribute taxes as determined by Congress by fighting efforts to undermine the CDSOA in the World Trade Organization.

DAK Americas LLC is a company of over 750 people with manufacturing operations primarily located in the Southeastern U.S., in the Carolinas. As producers of Textile Fibers, PET Bottle Resins and Chemical based raw materials (Monomers), our products touch the lifes of many people and industries. Our Fibers are used in Apparel, Home Furnishings, Non-Wovens and Industrial applications. PET Bottle Resins produced by DAK Americas are used to make the bottles of many of the well-known brands of Carbonated Soft Drinks and Bottled Waters in the consumer markets today. The raw materials we manufacture are used both in house and as merchant sales for various feed streams for chemical processes.

The recent lifting of quotas on many textile related products has already forced our company to make huge changes in the quest to remain competitive and keep our businesses both profitable and operational. We have followed recent trade regulations and laws and are continuing to improve our operational plans to remain competitive. We are up for the challenge and can remain an active player in a fair and competitive manner. The fact is that CDSOA exist does not affect "fair" trade and is a safeguard to level the playing field. Fairly traded imports are not affected by the CDSOA, unfair trade is made fair.

We have participated in CDSOA distributions for the fiber side of your business since 2001 and have received nearly $700,000 in compensation to date. DAK Americas has used these funds to continue to both maintain and improve the physical assets of our operations that have allowed us to remain competitive with increased efficiency and capacity. Without these funds, these improvements would be more limited in scope and frequency.

Any bill seeking to repeal CDSOA operates to harm the groups most damaged and effected by the unfair trade practices makes absolutely no sense. These distributions strengthen the fairness of the playing field and allow our industry to mount a fair competitive battle for business. To define the need for the repeal of this bill as a "technical correction" to current law is nothing more than handing over many U.S. Businesses to unfair foreign competition.

Accordingly, DAK Americas requests that you please accept these comments for consideration and remove H.R. 1121 from the Miscellaneous Tariff Bill (MTB). Furthermore, DAK opposes inclusion of HR 2473 in the MTB as well.

With great appreciation for your time on this subject,

Sincerely,

Richard A. Lane, Jr.
Public Affairs & Trade Relations

Eagle Materials, Inc.
Dallas, Texas 75219
August 24, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to the Committee's July 25, 2005 Press Release, I am writing on behalf of Eagle Materials Inc. and its approximately 1,600 employees to express our strong opposition to the inclusion of H.R. 1121 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 1121 is a highly controversial bill that would repeal the Continued Dumping and Subsidy Offset Act ("CDSOA"). It can by no means be fairly described as a "technical correction" to existing law.

Eagle Materials Inc. is a manufacturer of basic building materials including cement, concrete, gypsum wallboard and aggregates. Our cement operations include plants in the Austin, Texas area (through a joint venture), Fernley, Nevada, LaSalle, Illinois and Laramie, Wyoming. We also have ready-mix operations in the Austin, Texas area and Northern California.

In the late 1980's, we experienced first hand the severe damage caused by dumped imports of cement from Mexico. The unfairly low prices of Mexican cement caused U.S. cement plants to close and took away any incentive to invest in new cement capacity. In 1990, the United States imposed antidumping duties on Mexican cement. Unfortunately, however, the dumping has not stopped. In fact, in the

13 administrative reviews conducted since the order was imposed, the Department of Commerce found that the dumping margin of CEMEX, S.A., the dominant Mexican producer, has averaged 63 percent. That means that even with the antidumping order in place, CEMEX's cement prices to customers in Mexico have been 63 percent higher than its cement prices to customers in the United States. The root cause of this unfair pricing behavior—a Mexican cement market that is closed to foreign competition—also has not changed since the antidumping order was imposed.

CDSOA both discourages continued dumping and also compensates the victims of such continuing unfair trade. The law merely provides that antidumping duties are distributed to the supporters of the original antidumping petition. If and when the dumping stops, so do the CDSOA distributions. Thus, CDSOA has no impact on fairly traded imports.

CDSOA distributions to date under the cement antidumping order have been very limited because the Mexican Government has refused to appoint NAFTA panelists to hear pending appeals of administrative reviews going back a number of years. It would be extremely unfair to U.S. cement producers to repeal CDSOA before these very old entries are liquidated and available for distribution. When distributed, these duties will help U.S. cement producers to invest in new production capacity and to create new jobs.

Contrary to what some consumers of unfairly priced imports have claimed, CDSOA has not led to the filing of frivolous antidumping petitions. In fact, the filing of new petitions has fallen sharply since CDSOA was enacted in 2000.

Finally, it makes no sense to repeal CDSOA while negotiators in Geneva are considering a U.S. proposal to amend the WTO Antidumping Agreement to clarify that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, your Committee should urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering these comments.

Steven R. Rowley

Embassy of Chile
Washington, DC 20036
August 28, 2005

The Hon. E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives

Dear Chairman Shaw,

Commenting on the proposed contents of the miscellaneous trade legislation to be discussed by the Sub-Committee on Trade of the Committee on Ways and Means, which you chair, I would like to communicate the strong support of the Government of Chile for H.R. 1121, the bill to repeal the Continued Dumping and Subsidy Offset Act of 2000 (CDSOA), also known as the "Byrd Amendment".

The CDSOA has been reviewed by the World Trade Organization (WTO) in 2003 and proved to be inconsistent with United States obligations under the WTO Agreements covering anti-dumping and countervailing duties. Since the U.S. has failed to bring itself into compliance with the WTO Dispute Settlement Body (DSB) resolution regarding the CDSOA in late 2003, eight countries-including Chile—have been authorized by the WTO to impose retaliatory duties on U.S. imports. Three of these countries and the European Union have already done so.

The CDSOA imposes a double punishment for exporters affected by anti-dumping measures. Not only do they face an extra duty, but they also confront a stronger competition because of the disbursement of these duties to the very same firms that requested and supported the initial trade remedy measure. As a result, the CDSOA not only distorts trade, but also affects domestic competition.

The CDSOA has had negative consequences for international trade. Chile has been affected by anti-dumping duties resulting from actions taken under the CDSOA that have affected industries which are highly dependent on trade, mainly with the U.S. These measures have been especially burdensome for small, low income farm related businesses, as is the case for raspberry producers.

The Dispute Settlement Body is a fundamental pillar to the multilateral trading system. It brings predictability, not only to nations and multinational corporations, but also to small firms which are highly dependent on trade. Chile considers, for this reason, that the failure by the United States to comply with WTO obligations hurts the interests of all members of the multilateral trading system.

Chile strongly believes that repeal is the only means by which the U.S. can comply with the DSB resolution regarding the CDSOA. For that reason we support prompt enactment of Bill H.R. 1121.

Andrés Bianchi
Ambassador of Chile

Embassy of India
Washington, DC 20008
September 2, 2005

Honorable E. Clay Shaw, Jr.,
Chairman,
Sub-Committee on Trade,
Ways and Means Committee of the
U.S. House of Representatives,
Washington, DC.

India welcomes the inclusion into miscellaneous trade legislation Bill HR 1121 on repeal of Section 754 of the Tariff Act of 1930 (CDSOA), also known as Byrd Amendment.

The CDSOA has been examined in the WTO and ruled by the Dispute Settlement Body (DSB) to be consistent with U.S. obligations under the WTO agreements covering anti-dumping and countervailing duties. Since the U.S. has not brought itself into compliance with the WTO DSB ruling regarding the CDSOA, eight countries, including India, have been authorized by the DSB to suspend concessions or other obligations in respect of the United States. Some countries have already commenced exercise of these retaliatory rights against the United States.

The Dispute Settlement Body (DSB) is a fundamental pillar of the multilateral trading system. It brings predictability and security to the multilateral trading system. Its credibility depends on the strict observance of its recommendations and rulings by its Members. We would prefer full compliance by the U.S. with the DSB decision rather than suspension of concessions and other obligations under the authorization obtained by it from the DSB. India, therefore, urges early repeal of the Byrd Amendment.

Ronen Sen
Ambassador

Empress International, Ltd.
Port Washington, New York 11050
September 1, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

On behalf of the Empress International, Ltd., I would like to thank you for the opportunity to comment on H.R. 1121, legislation to repeal the "Continued Dumping and Subsidy Offset Act" (CDSOA), commonly known as the Byrd Amendment. Our organization supports this legislation's inclusion in the miscellaneous trade bill.

ASDA is an organization of U.S. seafood importers, distributors, wholesalers, retailers, and food trade associations that are dedicated to free and fair trade in seafood. Our organization's membership is comprised of 75 companies across the United States with average annual sales of approximately $25 million each. Domestic industries that depend on seafood imports are an important contributor to the U.S. economy. ASDA opposes tariffs, quotas, and other trade restrictions that interrupt the supply or interfere with the affordability of all seafood products.

To supply ample amounts of shrimp for families to enjoy at our nation's restaurants or find at grocery stores and other retail outlets, ASDA members rely on imported products.

We strongly believe that the group of domestic seafood processors that filed an anti-dumping petition with the Commerce Department and the U.S. International Trade Commission against imported shrimp from six countries was primarily motivated by the prospect of receiving Byrd money. In fact, we have flyers from law firms representing the shrimpers marketing the prospect of Byrd monies that were used to recruit petitioners for the shrimp case. Far from changing their business strategy to keep up with their global competitors, as we have encouraged the domestic industry to do for years, we strongly believe that the petition was filed in order to pave the way for receiving millions of dollars in special interest payments through the Byrd Amendment.

Byrd payments were so prominent in the motivation for this case that when the shrimp processors later moved to have fresh shrimp removed from the scope of the investigation, shrimpers that catch fresh shrimp launched a lawsuit against the processors to protect their Byrd monies.

We also believe that the domestic shrimpers' opposition to the current ITC Changed Circumstance Investigation for shrimp imports from Thailand and India, initiated by the ITC because of the devastation caused by the December 2004 Tsunami, is based on the fear of losing Byrd monies.

Now that Commerce and the ITC approved the duties on shrimp imports from Brazil, China, Ecuador, India, Thailand and Vietnam, ASDA members not only must pay the duties but also see the monies in the future transferred to the domestic industry as a reward for filing their lawsuit. U.S. businesses are thus sent the wrong message from our government; that trade protectionism makes for a better business plan than modernization.

The Byrd Amendment actually helps very few companies. Move than half of the Byrd Amendment payments in 2004 went to only *nine* companies, and more than 80 percent of the payments went to only *44* companies nationwide.

U.S. producers in a wide variety of sectors are now filing trade actions because they know they will be eligible for Byrd money. In this sense, the Byrd Amendment adds additional punitive damage-like incentives to file cases, in that a victory enriches the filer beyond simply "leveling the playing field". U.S. companies in line to receive these payments also have a clear incentive to include more products within the scope of anti-dumping cases and to oppose ever eliminating any duty for fear of losing the Byrd money.

The Byrd Amendment is simply bad domestic policy. The members of the domestic shrimp industry who filed the trade petition will not be required to use Byrd monies that they receive to take the steps necessary to modernize or improve their competitiveness. Instead, they can count on receiving a government handout for every subject shrimp imported into this country.

The Byrd Amendment was passed without consideration by the appropriate committees of Congress and has done unforeseen injury to American companies. We request that you include H.R. 1121 in the miscellaneous trade bill and appreciate the opportunity to comment on this important issue.

Sincerely,

Timothy McLellan
President

European Chemical Industry Council
Brussels, Belgium
September 2, 2005

The Hon. E. Clay Shaw
1236 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw,

Cefic would like to express its strong support for the inclusion of H.R. 1121, legislation to repeal the Continued Dumping and Subsidy Offset Act (CDSOA), in the miscellaneous trade bill.

The European Chemical Industry Council, Cefic, is the forum and the voice of the chemical industry in Europe, representing—directly or indirectly—about 27.000

chemical companies. In 2004, EU chemical exports to the U.S. amounted to £26.8 billion, while EU chemical imports from the U.S. amounted to £18.8 billion.[1]

Cefic has called for the repeal of the CDSOA (aka Byrd Amendment) since it was signed into law in 2000. Cefic supports the repeal of the Byrd Amendment because:

—The Byrd Amendment clearly violates WTO agreements as found by the WTO Dispute Settlement Body. The failure of the U.S. to comply fully in a timely manner with its WTO obligations is damaging to the credibility and effective functioning of the rule-based trading system—with potentially wide-ranging effects for an open global trading system. In addition, the U.S. failure to comply with its WTO obligations has forced various U.S. trading partners to impose retaliatory measures which are undermining the principle of free trade.

—The Byrd Amendment distorts trade and fair competition. The competitiveness of the EU exporters and the fair competition restored by the imposition of U.S. anti-dumping or countervailing duties is undermined by the subsidies paid to U.S. producers from the anti-dumping and countervailing duties collected.

—The Byrd amendment creates a powerful and inappropriate incentive for U.S. companies to file anti-dumping and countervailing duty cases, knowing that they will be eligible for disbursements of the duties resulting thereof. Furthermore, U.S. companies in line to receive these payments have a clear incentive to include more products within the scope of anti-dumping cases, including products not even made in the U.S.

—Finally, as only petitioners and supporters of dumping and subsidy cases will be eligible for duty disbursements, more competitive domestic producers, who often prefer not to be a party to the proceedings, are put at a comparative disadvantage.

Given the wide-ranging problems created by the Byrd Amendment, Cefic urges all members of the Trade Subcommittee to support the inclusion of H.R. 1121 in the miscellaneous tariff bill.

Yours sincerely,

René van Sloten
Director, International Trade and Competitiveness

European Commission Delegation
Washington, DC 20037
August 29, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Subcommittee on Trade
House Ways & Means Committee

Dear Chairman Shaw:

The European Union welcomes the opportunity to comment on, and supports the inclusion into a miscellaneous trade legislation of the bill H.R. 1121 repealing Section 754 of the Tariff Act of 1930.

Section 754 was enacted by the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA" or "Byrd Amendment"). This act is at the heart of a major dispute in the World Trade Organisation ("WTO") opposing the United States and its main trading partners, including the European Union. Its repeal would remove a serious trade irritant that prejudices the United States' trade relations and its credibility as a reliable partner in the WTO.

The CDSOA is a blatant breach of the letter and spirit of the WTO rules

The enactment of the CDSOA raised immediate and widespread concerns not only in the European Union but in the whole WTO membership. 11 members (Australia, Brazil, Canada, Chile, the EU, India, Indonesia, Japan, Korea, Mexico and Thailand) brought a complaint under the dispute settlement proceeding and were supported by 5 other members (Argentina, Costa Rica, Hong Kong (China), Israel, Norway). It was the first time in the history of the Organisation that so many members joined forces to challenge a measure taken by another member.

There was no doubt that the CDSOA was contrary to the basic obligation to limit action against dumping or subsidisation to the remedies specifically available under the anti-dumping and anti-subsidy agreements (i.e. duties on imports of the dumped

[1] This data excludes pharmaceuticals.

or subsidised goods, undertakings on minimum import prices or, in the case of a subsidy, multilaterally sanctioned countermeasures). The CDSOA distributes the collected anti-dumping and anti-subsidy duties to the companies that brought or supported those trade remedy cases. Thereby, the CDSOA imposes a second hit on dumped or subsidised products: domestic producers are, first, protected by anti-dumping and anti-subsidy duties and, second they receive subsidies paid from these duties at the expense of their competitors. This overcompensates the dumping or subsidisation and upsets the fair competition previously restored by the imposition of duties to the detriment of exporters, U.S. importers, U.S. consuming industries and U.S. producers that are not eligible to the CDSOA payments. The Dispute Settlement Body of the WTO fully confirmed this legal assessment in a widely expected decision in January 2003.

The limitation of the remedies available against dumping or subsidisation is a cornerstone obligation of the WTO and must remain

The European Union is aware of requests to negotiate rules in the WTO that would "legalize" the CDSOA and wishes to express its total opposition to such negotiations.

Such a change of the WTO rule-book would be fundamentally misguided and against the interests of all WTO members including of the United States'. The limitation of the remedies available is one of the obligations that maintain the delicate balance between trade liberalisation and a legitimate protection of national industries against unfair competition.

The inevitable consequence of authorizing multilaterally the disbursement of the anti-dumping and anti-subsidy duties to subsidize the national competitors of the exporters would be a proliferation of anti-dumping and anti-subsidy duty actions, which would have a major negative impact on world trade, including on U.S. exports.

The European Union wishes to draw the attention of the Committee to statistics published by the WTO on the anti-dumping activity over the last 10 years (1995–2004).[1] They show that the United States has been over that period the third most targeted WTO member in terms of initiation of anti-dumping investigations and the fourth most targeted member in terms of anti-dumping measures imposed. A legalization of a redistribution mechanism such as the CDSOA would therefore not be in the interest of the U.S. producers as they would be hit next in their export markets.

The repeal of the CDSOA does not affect the ability of the United States to protect its industry from unfair competition

The CDSOA is an "added piece" to the United States' system of protection against dumping or subsidisation. Repealing it would leave this system unaffected and would therefore not affect the United States' ability to provide to its companies and workers a legitimate protection against unfair competition. The imposition of anti-dumping and anti-subsidy duties (or other remedies specifically authorised by the relevant WTO agreements) ensures the required protection.

The CDSOA was also presented as the adequate way to respond to continued dumping and subsidisation which prevents market prices from returning to fair levels and frustrates the remedial purpose of the anti-dumping and anti-subsidy duties. It may happen that dumping or subsidisation increases over time and that the duty initially imposed becomes insufficient to neutralise it but other adequate legal recourses are and will continue to be available. Thus, WTO rules allow for the review of the level of the duty and the retroactive application of the revised duty rate, thereby cancelling out any unfair competitive advantage that could result from increasing the level of dumping or subsidisation.

These rules are implemented in U.S. legislation by Section 751(a) of the Tariff Act of 1930 which allows United States' companies to require every year a review of the duty, which result will be applied retroactively.

Ignoring the DSB ruling and recommendation fundamentally affects the United States' interests

The United States had 11 months (until 27 December 2003) to bring its legislation into conformity with the WTO rules, but the deadline expired without any concrete signs of forthcoming compliance with the WTO ruling. This has been even more disturbing that messages were repeatedly heard that the United States would consider respecting its obligations only if subject to substantial sanctions or would even choose to neglect international law. In such circumstances, the European Union saw

[1] Available on the WTO website at: http://www.wto.org/english/tratop_e/adp_e/adp_e.htm

no other option than to request the authorisation to retaliate against the United States. Brazil, Canada, Chile, India, Japan, Korea and Mexico came to the same conclusion.

The European Union started the application of retaliatory measures on 1 May 2005 in the form of a 15% additional import duty on a range of U.S. products including paper and textile products, machinery and sweet corn. In accordance with the arbitration award, the level of retaliation will be revised annually and new products may then become subject to retaliation. Canada has also applied a 15% additional import duty on live swine, tobacco, oysters, specialty fish originating in the United States since 1 May 2005. Japan recently announced that it would apply a 15% additional duty on certain U.S. products as from 1 September 2005 and Mexico has just published a decree applying retaliatory measures on certain U.S. products as from 18 August. The other complainants are taking preparatory steps to exercise their retaliation rights in the WTO. Domestic requirements impose different calendars, but all may apply retaliation at any time they deem appropriate as all required steps in the WTO have now been completed.

Again, this is the first time in the history of the WTO that so many members are authorised to impose retaliatory measures. More tellingly, these eight members represent the major trading partners of the United States with 71% of total U.S. exports and 64% of total U.S. imports. This illustrates again the reality of the Byrd amendment dispute: a U.S./rest of the world problem.

By contrast, the legislation at the root of this dispute only benefits a handful of companies. Two companies have received more than one third of the money distributed so far (i.e. more than U.S. $366 million out of the roughly U.S. $1 billion disbursed in the first four distributions) and every year half of the payments went to a very limited number of companies (4 in 2001, 3 in 2002, 2 in 2003 and 9 in 2004).

On a systemic point of view, the dispute settlement system is a fundamental pillar of the WTO. It provides security and predictability to the multilateral trading system. Its credibility depends on its strict observance by the members. The failure of the United States, one of the world's leading trading nations, to comply fully in timely manner with its WTO obligations is damaging to the credibility and effective functioning of the rules-based trading system. Undermining WTO disciplines harms the interests of all Members, including those of the United States.

The European Union trusts that the Committee will appreciate the utmost importance for the United States to abide by its WTO obligations and repeal the CDSOA without further delay.

Angelos Pangratis
Chargé d'Affaires, a.i.

Statement of European Confederation of Iron and Steel Industries

On behalf of the company and national association members listed in the attachment, Eurofer appreciates this opportunity to comment on H.R. 1121, a bill to repeal the Continued Dumping and Subsidies Offset Act of 2000 (Section 754 of the Tariff act of 1930, as amended). Collectively, Eurofer represents almost 20 percent of global steel production. As producers, exporters, and importers of steel products to the United States, we have been adversely affected by the "Byrd Amendment." We therefore support the inclusion of H.R. 1121 in the miscellaneous tariff bill and its enactment at the earliest possible time.

Our position rests on the following considerations:

- Section 754 *distorts international trade.* The massive refund of antidumping and countervailing duties affords a financial incentive to U.S. industries to file trade law actions, to broaden the scope of such cases (sometimes including products not produced in the United States), and to engage in harassing tactics to ensure the continuation of orders with the greatest possible margins. This erodes the competitiveness of U.S. consuming industries. In addition, these incentives run counter to the intended purpose of the trade laws—to remedy the injury caused by dumping and subsidiesthrough the assessment of dumping or countervailing duties, minimum import price undertakings or, in the case of subsidies, sanctioned counter measures. They provide a punitive double remedy inconsistent with World Trade Organization (WTO) rules that were established by negotiation and approved by the U.S. Congress by subsidizing domestic producers with cash infusions to the detriment of their foreign competitors. This is a double hit to companies competing on a global level. First, the exported goods of these

companies are subject to duties paid by the USA importer, and second, the same companies see these duty payments then transferred to their USA competitors.

- The Byrd Amendment is a blatant subsidy to a very few companies which has a particularly distortive impact on steel trade. More than half of the Byrd Amendment payments in 2004 went to only nine companies, and more than 80% of the payments went to only 44 companies. U.S. steelmakers reaped around $58 million in 2004, more than 20% of the total of around $284 million in the same year. The U.S. steel industry is therefore a particular beneficiary of this massive refunding. This programme must be seen as a specific subsidy and is the subject of the prohibition which is being sought by all major steel producing countries in the world, including the USA, in the framework of the OECD discussions on the Steel Subsidy Agreement (SSA).
- Section 754 has been found to be *in violation of U.S. obligations* under the WTO agreements.
- The United States has *exhausted its appeals* under the WTO dispute settlement process. A panel of experts ruled against the United States. That decision was ratified by the Appellate Body. Under the rules, the United States had 11 months—to December 27, 2003—to bring its statue into compliance with the WTO legal determination. That was not accomplished, and another 20 months have passed without corrective action. As is their right, adversely affected trading partners have begun to take measures to rebalance concessions between them and the United States. The European Union, followed by Canada, Japan, and most recently Mexico—four of the leading trade partners of the U.S.—have imposed tariffs on various U.S. exports. This is the most widespread retaliatory measure ever taken under the WTO, and additional trading partners may take actions of their own in coming months.Further delay in correcting the legislation will add to the distortive effects, invite further retaliatory measures by trading partners, and diminish the credibility of the United States as a leading member of the system of trade rules embodied by the WTO. By contrast, timely repeal of Section 754 would eliminate an irritant in U.S. relations with the European Union and other leading trade partners, eliminate the threat of further retaliatory measures, and bolster the credibility of the WTO dispute settlement system.

For these reasons, Eurofer believes that the repeal of section 754 is long overdue and should not be further delayed.

Attachment

EUROFER MEMBERS ON WHOSE BEHALF COMMENTS ARE BEING FILED

Companies

Alphasteel Ltd., United Kingdom
Arcelor, Luxembourg
Acciaieria Arvedi, Italy
BSW—Badische Stahlwerke GmbH, Germany
Bohler Uddeholm, Austria
Grupo Celsa, Spain
Corus, United Kingdom
DanSteel A/S, Denmark
Dillinger Hutte, Germany
Duferco, Swizerland
Dunaferr, Hungary
Edelstahlwerke Sudwestfalen GmbH, Germany
Georgsmarienhutte, Germany
Halyvourgia Thessalias, Greece
Halvourgiki Inc., Greece
Helliniki Halyvourgia S.A., Greece
JSC Liepajas Metalurgs, Latvia
Lech-Stahlwerke, Germany
Marienhutte Stahl—und Walzwerke, Austria
Mittal Steel Europe s.a., Luxembourg
Mittal Steel Ostrava a.s., Czech Republic
Mittal Steel Poland s.a., Poland
Nedstaal Staal BV, The Netherlands
Riva, Italy

Saarstahl AG, Germany
Salzgitter AG, Germany
Sidenor, Greece
Siderurgia Nacional Empresas de Productos Longos, S.A., Portugal
Slovenian Steel Group, Slovenia
ThyssenKrupp Steel, Germany
Trinecke zelezarny, Czech Republic
Vitkovice Steel, Czech Republic
Voest Alpine, Austria

National Associations

Fachverband der Bergwerke und Eisen erzeugenden Industrie, Austria
Groupement de la Siderurgie—GSV, Belgium
Hutnictvi zeleza, Czech Republic
Mettallinjalostajat, Finland
Federation Francaise de l'Acier, France
Wirtschaftsvereinigung Stahl, Germany
ENXE, Greece
Magyar Vas—es Acelipari Egyesules, Hungary
Federacciai, Italy
Metallurgical Chamber of Industry and Commerce, Poland
Union de Empresas Siderurgicas—UNESID, Spain
Jernkontoret, Sweden
UK Steel, United Kingdom

[By permission of the Chairman:]

European Steel Tube Association
Boulogne-Billancourt, France
August 25, 2005

House Committee on Ways and Means
Subcommittee on Trade

Dear Sir,

The European Steel Tube Association welcomes the opportunity to support the repeal of the Continued Dumping and Subsidy offset Act (Byrd Amendment) by inclusion of the bill H.R. 1121 into a miscellaneous trade bill because:

- U.S. producers are encouraged to file trade actions knowing full well that they will be eligible for subsidies under the Byrd Amendment. U.S. companies in line to receive these payments have a clear incentive to include more products within the scope of anti-dumping or anti-subsidy cases, including products not even made in the U.S.
- The Byrd Amendment provides a double hit to global companies: first, foreign companies are forced to pay these duties; and second, due to the Byrd Amendment, the duty payments are then transferred to our U.S. competitors.
- The World Trade Organization (WTO) found that the Byrd Amendment violates WTO agreements and distorts trade yet the U.S. has ignored this ruling.
- Failing to act on the WTO's ruling undermines the U.S. government's ability to take a leadership role on international trade issues.
- Products that are not produced in the U.S. are still included in the scope of products subject to Byrd Amendment duties—due solely to the potential landfall of Byrd payments, which has totaled more than $1 billion to date, with billions more waiting in the wings.
- Allocation of Byrd Amendment money is based on "qualified expenditures", which are not monitored or audited by Customs or any government agency.
- We rely on open trade for our export sales. The Byrd Amendment makes exporting raw materials for U.S. consuming industries and consumers more difficult and risky, increasing our costs and uncertainty.
- The repeal of the Byrd Amendment will not affect the ability of the U.S. to protect its industry from unfair competition: the imposition of anti-dumping and anti-subsidy duties or other remedies authorized by the relevant WTO agreements ensures the required protection.
- This is the first time in the history of the WTO that so many members are authorized to impose retaliatory measures to the U.S. This illustrates the reality

of the Byrd Amendment dispute: a U.S./rest of the world problem. The failure of the U.S., one of the world's leading trading nations, to comply fully with its WTO obligations is damaging the credibility of the rule based trading system. Undermining WTO disciplines harms the interests of all Members including those of the U.S.

The European Steel Tube Association and its Members trust that the Committee will repeal the Byrd Amendment and enforce free and fair trading principles in accordance with WTO agreements.

Marc Bodineau
Secretary General

[By permission of the Chairman:]

Federation of European Bearing Manufacturers' Associations
Frankfurt, Germany
September 1, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Subcommittee on Trade
House Ways & Means Committee

Dear Chairman Shaw:

The Federation of European Bearing Manufacturers' Associations (FEBMA) appreciates the opportunity to offer its comments on a Miscellaneous Trade Legislation.

FEBMA supports the inclusion of the bill H.R 1121 repealing Sec. 754 of the Tariff Act of 1930 into a Miscellaneous Trade Legislation.

Sec. 754 of the Tariff Act of 1930 was enacted by the Continued Dumping and Subsidy Offset Act of 2000 (CDSOA / "Byrd Amendment").

The CDSOA requires that anti-dumping or anti-subsidy duties be transferred to producers of like products that were petitioners in the case or have supported the petition.

Bill H.R 1121 brings the United States legislation into conformitiy with the WTO rules

The Dispute Settlement Body of the WTO in a widely expected decision in January 2003 confirmed that the CDSOA violates WTO Agreements and distorts trade (WT/DS 217/AB/R—WT/DS234/AB/R).

The deadline to comply with the WTO ruling already expired on December 27, 2003.

The CDSOA is subject of one of the major disputes in the history of the WTO. Never before had there been more Members that brought a complaint and have been authorized to impose retaliatory measures.

Its repeal must be considered a prerequisite for the credibility and the functioning of the multilateral trade system. The functioning of the rules-based multilateral trade system depends on strict observance by all its Members. Undermining its credibility and functioning certainly is not in the best interest of all global trading partners.

Bill H.R. 1121 supports the principles of free trade

1. By repealing the CDSOA companies will no longer be encouraged to file or to support trade actions simply in order not to be excluded from disbursement of duties.

This enables authorities to adequately determine whether or not there is sufficient industry support for trade action which is a prerequisite for legitimate protection of national industries.

2. Repealing the CDSOA will remove an additional layer of protection over and above the relief provided for in the relevant GATT / WTO rules resulting "in the financing of U.S. competitors" (WT/DS 217/AB/R, 256). Bill H.R. 1121 brings to a termination such a practice counteracting the principles of free trade.

Duties paid by the EU bearing manufacturers through their U.S. subsidiaries as well as other importers of EU manufactured bearings that have been disbursed to the U.S. competitors under the CDSOA in the years 2001–2005 amount to $ 125 million.

In total U.S. bearing manufacturers have received $ 453 million, the vast majority going to only one company. (www. cbp.gov).

Financing U.S. competitors through the transfer of duties to such an extent causes substantial harm to EU manufacturers and severely distorts trade in the U.S., the EU and world wide. The bearing industry is a global industry. U.S. manufacturers have production facilities in the EU 25 countries and European companies have facilities in the United States.

This must be seen also in connection with the "zeroing" practice applied by the United States. A WTO panel on this dumping calculation methodology is pending. Without "zeroing" to our best knowledge there would be no anti-dumping duty orders against EU bearing manufacturers.

FEBMA trusts that the Committee will take the initiative to achieve that the United States will address its WTO obligations and repeal the CDSOA without further delay.

Sincerely,

T1Dr. Andreas Rowold
Secretary General

Floral Trade Council
Ovid, Michigan 48866
September 1, 2005

The Honorable E. Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

On July 25, 2005, the Subcommittee issued Advisory No. TR–3. which requested comments for the record regarding proposed bills concerning "technical corrections to U.S. trade laws and miscellaneous duty suspension proposals." A list of these miscellaneous trade bills is provided in the Advisory. This letter is the Floral Trade Council's response to the Subcommittee's request.

The Floral Trade Council represents U.S. fresh cut flower growers.

In particular, the FTC is concerned about, and opposes, two bills; H.R. 1121, and H.R. 2473. H.R. 1121 is "A bill to repeal section 754 of the Tariff Act of 1930" and H.R. 2473 is "A bill to amend the Tariff Act of 1930 relating to determining the all-others rate in antidumping cases." These bills are controversial and should be deleted from the final miscellaneous trade bill.

Strong Trade Remedy Laws Are Important To Fair Trade:

As the organization that represents cut flower producers in the U.S., the FTC is an unwavering supporter of strong trade law remedies. Effective and useable trade remedy laws are important tools to maintaining a level playing field for our industry in particular and more broadly for U.S. agricultural producers.

The FTC believes that any attempt to weaken trade remedy laws in this bill or elsewhere, should be rejected. Absent strong trade remedy laws, it will be harder for U.S. companies and workers to compete fairly with subsidized and dumped imports. And, without effective and useable trade remedy laws on the books; market opening trade policies will lose the support of the American people.

H.R. 1121 and H.R. 2473 will undermine trade remedy laws in the ways detailed below. These bills are the type of controversial measures should not be included in a miscellaneous trade bill package.

Concerns about H.R. 1121:

- This bill proposes to repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"). CDSOA has strong bi-partisan support from Members of Congress and the public. Any attempt to repeal CDSOA would attract intense controversy and strong opposition.
- Under CDSOA, duties that are collected as a result of continued dumping or subsidization are distributed by the U.S. government to eligible domestic industries found to have been injured by dumped or subsidized imports.
- CDSOA has no effect on how dumping and subsidy rates are calculated or on how much in duties importers must pay. All it does is simply distribute col-

lected monies when unfair trade practices by our foreign competitors do not cease.
- CDSOA distributes money only when dumping and subsidization continues after an order. If dumping and subsidization cease, no funds are collected or distributed.

Concerns about H.R. 2473:

- This bill proposes to weaken the antidumping law by deleting the word "entirely" from subparagraphs (A) and (B) of section 735(c)(5) of the Tariff Act of 1930. These provisions concern the calculation of the "all others rate."
- This proposal is not simply a technical change. In fact, it would make a significant and harmful change to the antidumping law by making it exceeding difficult in a large number of cases for the Department of Commerce to calculate an "all-others" dumping rate for non-investigated exporters.
- The "all-others" rate is the rate that applies to all exporters that were not investigated. It is calculated as the weighted average of the dumping margins calculated for those individual exporters that were investigated.
- Currently, Commerce does not include in the weighted average any margins based entirely on "facts available" data. Commerce does include in the weighted average margins based partially on "facts available." Margins based on partial facts available are not uncommon.
- "Facts available" data (data substituted for actual company-specific data) is applied by Commerce when an exporter fails to submit data required to calculate a dumping margin.
- H.R. 2473 proposes to prohibit Commerce from calculating the "all others" rate from any margins based on facts available, partial or entire. This would mean that, in many case, there would be no useable margins from which to calculate an "all others" rate.
- In substance, H.R. 2473 would weaken the antidumping law. H.R. 2473 would cause severe problems for Commerce in carrying out its statutory responsibilities to administer the antidumping law.

A Miscellaneous Trade Bill is Not the Vehicle to Implement WTO Panel or Appellate Body Decisions

Another reason to delete H.R. 1121 and H.R. 2473 from a miscellaneous trade bill package is that they are legislation designed to change U.S. law in response to controversial decisions by WTO dispute panels and Appellate Body. A non-controversial miscellaneous trade bill is not the appropriate vehicle to make such legislative changes to trade remedy laws.

These bills clearly respond to specific cases where WTO panels and its Appellate Body have engaged in overreaching their authority. On both the CDSOA and the "all-others" rate issues, Congress and the Administration have expressed displeasure with this WTO overreach. These and other WTO decisions have tried to impose on the U.S. obligations that were not negotiated and which are not apparent from the text of the WTO Agreements.

In addition, Congress has consistently told the Administration to work to seek a resolution of these controversial decisions through negotiations at the WTO. The Administration is currently doing just that in the Doha Round negotiations. Both H.R. 1121 and H.R. 2473, if legislated, would interfere in these efforts.

In conclusion, H.R. 1121 and H.R. 2473 need to be expeditiously removed from the miscellaneous trade bill package. There is no reason to jeopardize the passage of the hundreds of other helpful and non-controversial bills contained in the package.

Respectfully submitted,

William R. Carlson
Executive Director

Statement of Richard Cashman, Florida Forest Products, Largo, Florida

The "Continued Dumping and Subsidy Offset Act of 2000," often called the "Byrd Amendment," allows for the distribution of CVD/AD deposits to affected U.S. producers who originally petition for trade remedies that result in the imposition of such duties. I am writing in support of H.R. 1121, and a repeal of this "Byrd Amendment."

My company, Florida Forest Products, in Largo, Florida, produces structural building components-metal-plate connected wood trusses, and open-web floor joists—which are made primarily of softwood lumber and light gauge, galvanized steel connector plates. Our products are used mainly in residential homes across the country, as well as multi-family dwellings and light-commercial and agricultural buildings. We employ 48, and strongly support H.R. 1121.

According to the International Trade Commission (ITC), 36% of the softwood lumber used in the U.S. comes from Canada. Based on our industry financial performance statistics, combined with a study done by the ITC, the structural building component industry's annual steel purchases are approximately 475,000 tons of steel in truss plates and an additional 130,000 tons in connectors.

Hence, my company's competitiveness and profitability are directly harmed by the protectionist trade remedies encouraged and exacerbated through the Byrd Amendment. Please allow me to offer the following observations:

Byrd Creates Perverse Incentive:

The Byrd Amendment is bad policy because it essentially creates a double benefit for targeted companies: first, through an increase in prices due to a tariff-induced reduced supply; and second, through the distribution of tariff dollars to the petitioning companies that already gain the benefit from the increase in prices.

As a consequence, the Byrd Amendment has simply encouraged additional U.S. companies to file more protectionist trade suits to reap the benefits of a direct payment from their marketplace competitors.

Byrd Encourages Protectionist Trade:

According to the World Trade Organization, as recently as 1997 only 15 antidumping cases were filed in the U.S., and only nine in the entire first half of 2000. But since the Byrd Amendment took effect, the numbers have climbed to 76 in 2001, 35 in 2002, and 37 in 2003.

Forty-four U.S. companies have each collected at least $1 million through the Byrd Amendment in 2004, and total assessed duties were over $284.1 million. From 2001 through 2004, U.S. Companies have benefited from more than $1.04 billion through this protectionist trade law.

Byrd Makes My Problems Worse:

First, as stated earlier, the Byrd Amendment encourages the filing of CVD/AD trade remedy cases. These trade tariffs artificially raise the cost of my raw materials, like softwood lumber and steel, which also leads to unnecessary uncertainty or restriction of supply.

Second, the Byrd Amendment makes it possible for nearly $4 billion in CVD/AD duties collected on the importation of Canadian softwood lumber to be distributed to U.S. petitioning companies. However, U.S. petitioning companies account for only 54 percent of U.S. softwood lumber production. This provides an unfair competitive advantage to these petitioning companies.

Third, the possibility of distribution created by the Byrd Amendment of this nearly $4 billion in CVD/AD duties makes a negotiated settlement of the softwood lumber dispute between the U.S. and Canada nearly impossible.

Byrd Unfair, Passed Unfairly:

The Byrd Amendment was passed as an add-on to a last minute appropriations bill, without consideration by the appropriate committees of Congress/

The Byrd Amendment creates harm to consuming industries like mine, and yet I have no ability to participate meaningfully in the trade cases the Byrd Amendment encourages. Repeal of the Byrd Amendment is an essential step in allowing consuming industries an opportunity to protect our trade interests.

Byrd Harms International Trade:

The WTO ruled the Byrd Amendment illegal two years ago, and in November 2004 it gave formal approval for Canada, Japan, the EU and four other jurisdictions to retaliate against the U.S. for refusing to amend or rescind the Byrd Amendment.

In March 2005, the Canadian government announced it would impose a punitive 15 percent duty, equaling $11.6 million annually, on targeted goods including oysters, live swine, specialty fish and cigarettes imported from the U.S. The EU announced similar punitive tariffs as well on paper, agricultural, textile and machinery products imported from the U.S.

Thank you for allowing me to provide my comments on H.R. 1121, please feel free to contact me if you have any questions or need for further information.

[By Permission of the Chairman]

Food and Drink Federation
London, England
September 1, 2005

Dear Members of the Ways and Means Sub-Committee

The Food and Drink Federation (FDF) is the voice of the United Kingdom's (UK) food and drink manufacturing industry. Our industry has an annual turnover in excess of $123 billion. Every year we import $48 billion worth of food and drink products and export almost $18 billion worth of goods worldwide. The United States is consistently our number one trading partner outside of the European Union (EU).

All too often, the UK food and drink industry is negatively affected by retaliatory sanctions which are imposed as a result of unrelated WTO disputes.

In the case of the Byrd Amendment Dispute, retaliatory sanctions have increased our members' bills for importing frozen sweet corn from the U.S. by 15%. This has directly caused our members to lose business and make redundancies in the areas of sales, marketing, production planning and finance. (The Sub-Committee may wish to note that one of the companies affected is General Mills UK, a wholly owned subsidiary of General Mills Minneapolis.) Our members may look to secure contracts with alternative European suppliers if these sanctions are to remain in place for much longer. **Our members would prefer to retain their existing strong relationships with U.S. suppliers, and therefore I urge the Ways and Means Sub-Committee to repeal the Byrd Amendment.**

Yours faithfully,

Melanie Leech
Director General

[By permission of the Chairman.]

French Federation of ores, industrial mineral and non ferrous metals
Paris, France
September 2, 2005

Sirs,

On 25 July 2005, the Trade Subcommittee of the Ways and Means Committee in the House of Representatives made public a list of bills that could be included in a miscellaneous trade bill. This list contains a bill introduced in March 2005 and which proposes to repeal the *Byrd Amendment* (Bill H.R. 1121 repealing Section 754 of the Tariff Act of 1930).

We support repeal of the Byrd Amendment (Continued Dumping and Subsidy Offset Act) because:

- We rely on open trade for our export sales. The Byrd Amendment makes exporting raw materials for U.S. consuming industries and consumers more difficult and risky, increasing our costs and uncertainty.
- The Byrd Amendment provides a double hit to global companies like ours: first, foreign companies are forced to pay these duties; and second, due to the Byrd Amendment, the duty payments are then transferred to our U.S. competitors.

And we would fear that U.S. producers could file trade actions knowing full well that they will be eligible for Byrd money, a clear incentive to include more products within the scope of anti-dumping cases.

As the World Trade Organization (WTO) found that the Byrd Amendment violates WTO agreements and distorts trade, we hope that the USA, leader on international trade issues, will follow the conclusions of this ruling.

Yours faithfully,

Patricia Vasseur
Chief of legal department

Gates Corporation
Denver, Colorado 80217
August 30, 2005

The Honorable E. Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

On July 25, 2005, the Subcommittee issued Advisory No. TR–3. which requested written comments for the record from interested parties regarding proposed bills concerning "technical corrections to U.S. trade laws and miscellaneous duty suspension proposals." Specifically, the Advisory included a list of the miscellaneous trade bills about which comments were requested. This letter is The Gates Corporation's ("Gates") response to the Subcommittee's request.

Gates is a manufacturer of power transmission belt and hose systems, components and accessories headquartered in Denver, Colorado. Gates has manufacturing and distribution facilities throughout the United States and abroad. For more information on Gates, please see our website at www.gates.com.

Gates is particularly concerned about, and opposes, H.R. 1121, "A bill to repeal section 754 of the Tariff Act of 1930". This bill is controversial and should be removed from the final miscellaneous trade bill.

H.R. 1121 will weaken trade remedy law as it proposes to repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA") discussed below. CDSOA has strong bi-partisan support from Members of Congress and the public and is important to Gates.

- Under CDSOA, duties that are collected as a result of continued dumping or subsidization are distributed by the U.S. government to eligible domestic industries found to have been injured by dumped or subsidized imports.
- CDSOA has no effect on how dumping and subsidy rates are calculated or on how much in duties importers must pay. All it does is simply distribute collected monies when unfair trade practices by our foreign competitors do not cease.
- CDSOA distributes money only when dumping and subsidization continues after an order. If dumping and subsidization cease, no funds are collected or distributed.

As a major U.S. manufacturer, Gates is a supporter of trade law remedies. Effective and useable trade remedy laws are crucial to maintaining a level playing field for U.S. manufacturers and their workers. Gates believes that any attempt to weaken trade remedy laws should be rejected because it will make it harder for U.S. companies and workers to compete fairly with subsidized and dumped imports. Without effective trade remedy laws in place, trade liberalization policies will lose public support. Moreover, a "non-controversial" miscellaneous trade bill is not the appropriate vehicle to make such a controversial legislative change to trade remedy laws.

A.L. Stecklein
Group President

[By permission of the Chairman.]

Gebr. Reinfurt GmbH & Co. Kg
Wuerzburg, Germany
September 2, 2005

Congressman E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade of the Committee on Ways and Means

Dear Congressman Shaw,

First of all, we appreciate the opportunity to comment on your bill trying to repeal the "Byrd Amendment". As a result we would like to state our consent with your initiative. Herewith we go along with the EC's argumentation which is the basis of our letter to your subcommittee:

As a family-owned small business company, producing ball bearings with 400 employees in Germany, we are heavily affect by the Administrative Reviews of Antifriction Bearings from Germany Case No. A–428–801. Additional to the enormous efforts we have to undertake to comply with all the underlying regulations of a POR reporting of our U.S.-exports, we have to acknowledge that eventual dumping-duties have to be paid a direct subsidy for our competitors in the U.S. market. Therefore ***we support*** the repeal of the Continued Dumping and Subsidy Offset Act *(Byrd Amendment)* by inclusion of the bill H.R 1121 into a miscellaneous trade bill because:

- U.S. producers are encouraged to file trade actions knowing full well that they will be eligible for subsidies under the *Byrd Amendment.* U.S. companies in line to receive these payments have a clear incentive to include more products within the scope of anti-dumping or anti-subsidy cases, including products not even made in the U.S.
- The *Byrd Amendment* provides a double hit to global companies: first, foreign companies are forced to pay these duties; and second, due to the *Byrd Amendment,* the duty payments are then transferred to our U.S. competitors.
- The World Trade Organization (WTO) found that the *Byrd Amendment* violates WTO agreements and distorts trade yet the U.S. has ignored this ruling.
- Failing to act on the WTO's ruling undermines the U.S. government's ability to take a leadership role on international trade issues.
- Products that are not produced in the U.S. are still included in the scope of products subject to *Byrd Amendment* duties—due solely to the potential landfall of Byrd payments, which has totalled more than $1 billion to date, with billions more waiting in the wings.
- Allocation of *Byrd Amendment* money is based on "qualified expenditures," which are not monitored or audited by Customs or any government agency.
- We rely on open trade for our export sales. The *Byrd Amendment* makes exporting raw materials for U.S. consuming industries and consumers more difficult and risky, increasing our costs and uncertainty.

Having established a U.S. daughter company in the beginning of 2004 and an engineer as an only employee currently, we are sure that with a continuing engagement in the U.S. market we would be able to create more job opportunities in the U.S. This vision can only be transferred into reality when growing is not hindered by pending liabilities for the so called importer of records. In our opinion, our U.S.-customers who now buy from us in Germany directly, will very likely turn to Asian suppliers than to the domestic U.S. industry. Therefore ***we support*** the repeal of the Continued Dumping and Subsidy Offset Act *(Byrd Amendment)* by inclusion of the bill H.R 1121 into a miscellaneous trade bill because:

- The *Byrd Amendment* provides a double hit on American manufacturers who use products subject to antidumping and countervailing duties. American companies are the ones that pay these duties, and because of the *Byrd Amendment,* they have these duty payments transferred to their U.S. competitors. Therefore, part of an industry is taxed to subsidize another part of that industry.
- The *Byrd Amendment* is a blatant subsidy to a very few companies that, far from assisting American manufacturing, actually undermines it. Most American manufacturers do not benefit from the Byrd Amendment. More than half of the Byrd Amendment payments in 2004 went to only nine companies, and more than 80 percent of the payments went to only 44 companies.
- The *Byrd Amendment* does not restrict the recipients' use of *Byrd Amendment* money.
- Allocation of *Byrd Amendment* money is based on "qualified expenditures," which are not monitored or audited by Customs or any government agency. The *Byrd Amendment* annually funnels money collected from the imposition of anti-dumping or anti-subsidy duties from government coffers to companies that petition for those duties. Such funnelling has totalled more than $1 billion to date, with billions more waiting in the wings.
- U.S. producers are encouraged to file trade actions knowing full well that they will be eligible for Byrd money. U.S. companies in line to receive these payments have a clear incentive to include more products within the scope of anti-dumping or anti-subsidy cases, including products not even made in the U.S.
- We rely on open trade for our export sales and our purchase of inputs. The *Byrd Amendment* makes importing raw materials more difficult and risky, increasing our costs and uncertainty.
- This law was passed without consideration by the appropriate committees of Congress and has done unforeseen injury to American companies. The anti-

dumping and countervailing duty laws are more arbitrary, the duties are higher and orders are harder to revoke or change as a result of the *Byrd Amendment.*
- This harms consuming industries, but they have no ability to participate meaningfully in these cases. Repeal of the *Byrd Amendment* is an essential step in allowing consuming industries an opportunity to protect their interests as a matter of fundamental fairness.
- We export products that are actually or potentially subject to retaliation: our major trading partners will take action against U.S. exports as a result of the failure of Congress to repeal this WTO-illegal measure.

With all due respect, please acknowledge the above mentioned facts and arguments.

Additional if there is any chance for you to support our first goal to get a revocation of the Administrative Reviews of Antifriction Bearings from Germany Case No. A–428–801, please do so. We appreciate your concern.

Best regards from Germany,

Sabine Reinfurt-Jäger
Managing Assistant

[By Permission of the Chairman]

General Mills UK
Uxbridge, Middlesex, England
August 31, 2005

Dear Sirs

General Mills UK is a wholly owned subsidiary of General Mills Minneapolis, the sixth largest food company in the world. Currently we import frozen sweetcorn from the United States. The sweetcorn is under the Green Giant brand and is produced from a proprietary and unique seed, therefore we are currently limited to the U.S. for sourcing this product.

As a consequence of the EU retaliation over the Byrd Amendment our frozen sweetcorn import costs have now risen by a further 15%. An increase of 15% in such a staple product sector is making our brand uncompetitive in the marketplace and therefore we are losing listings. The consequences of this are two-fold. In the short term we will have to make redundancies in the areas of sales, marketing, production planning and finance. In the longer term we will look to re-source this product using a Europe based growing source.

Neither of these consequences are ideal and therefore I would urge the Ways and Means Committee to repeal the Byrd Amendment.

Yours faithfully

J.G. Moseley
Managing Director

Gerdau Ameristeel
Tampa, Florida 33631
September 2, 2005

Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Dear Sir or Madam:

Gerdau Ameristeel is the steel industry's second largest minimill manufacturer with 73 operating facilities strategically located throughout North America. Our 7,200 professionals are dedicated to the preservation of a viable and competitive steel industry that is vital to the economic health of our society.

On an annual basis, our steel operations recycle over eight million tons of ferrous scrap to produce quality steel products that reinforce the skylines and infrastructure of our communities and enrich the security of our lifestyles. The labor productivity of our operations and the advanced technology of our assets will rank among the leaders in the intensely competitive global steel industry.

Gerdau Ameristeel has assumed a primary role in the consolidation and revitalization of the steel industry in North America. In the pursuit of our goals and strategic vision, we are not dependent on protectionist trade measures nor do we seek anything more than a level and fair global market environment. Unfortunately, the history of global steel trade reflects a legacy of foreign government intervention, subsidization and financial corporate welfare support for locally protected steel assets.

The 7,200 employees of Gerdau Ameristeel wish to express their opposition to H.R. 1121 in the Miscellaneous Tariff Bill and any related legislative actions directed at the repeal of the Continued Dumping and Subsidy Offset Act of 2000 (CDSOA). We also wish to voice our displeasure and opposition to the proposals of H.R. 2473 which alters the calculation of the "all others" rate in anti-dumping and countervailing duty trade cases. Our opposition to the weakening of these unfair trade deterrents is based on a desire to sustain a reasonable balance in the fairness of international steel trade and to provide adequate time for completion of the restructuring of the North American steel industry.

Over the past few years, our company has committed approximately one billion dollars towards the consolidation and revitalization of the domestic steel industry. Through this industry consolidation phase, Gerdau Ameristeel has increased its steel manufacturing capacity by approximately 400% and embarked on a long term program to resurrect the competitive stature of the acquired facilities.

The success of this high risk strategy will require extensive capital investments in the modernization of the steel manufacturing facilities and the assimilation and rebuilding of the steel industry talent pool. We perceive that the completion of this industry revitalization will continue for several more years and the deterrent advantages of the existing trade laws will be of vital importance to this process. The fulfillment of this ambitious undertaking is also consistent with the directives of President Bush's policy mandates that were articulated during his first term of office.

Gerdau Ameristeel is a major architect and driving force in the realization of the administrations steel policy and we urge the Congress to provide the moral guidance and legislative support for our completion of this task. The strength of our economy and the national security of our sovereign independence mandate that we retain a viable manufacturing sector and a healthy steel industry.

As a constructive business partner in the realization of our steel industry vision, we strongly seek your support for the retention of effective trade laws and rejection of H.R. 1121 and H.R. 2473 in the Miscellaneous Tariff Bill.

Sincerely,

Phillip E. Casey
Chairman and CEO

Statement of the Government of Japan

The Government of Japan welcomes the initiative taken by Chairman Clay Shaw to propose Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills, and appreciates the opportunity to present its views to the Trade Subcommittee of the Committee on Ways and Means on Bill H.R. 1211 repealing Section 754 of the Tariff Act of 1930, the Continued Dumping and Subsidy Offset Act ("CDSOA"). The Government of Japan strongly supports Bill H.R. 1121.

1. CDSOA

The CDSOA, commonly known as the "Byrd Amendment," is legislation that mandates that U.S. authorities distribute assessed antidumping ("AD") and countervailing duties ("CVD") among the domestic producers which support an investigation that ultimately leads to the imposition of those duties. On January 27, 2003, the Dispute Settlement Body ("DSB") of the World Trade Organization ("WTO") found that the CDSOA was inconsistent with the United States' obligations under WTO rules [1] The United States had 11 months (until December 27, 2003) to bring its legislation into conformity with the WTO rules [2] More than a year and half have now passed since the expiration of this implementation period. During the last ses-

[1] See the Minutes of the Dispute Settlement Body, on United States-Continued Dumping and Subsidy Offset Act of 2000 (Pages 8–18, WT/DSB/M/142)

[2] Award of the Arbitrator (WT/DS217/14, WT/DS234/22)

sion of Congress, two bills aiming to implement the WTO ruling were introduced without avail.

2. CDSOA Harms the U.S. Interests.

According to an analysis conducted by the U.S. Congressional Budget Office,[3] the CDSOA undermines the competitiveness of U.S. industries.

The CDSOA gives U.S. companies incentives to file or support more AD/CVD petitions, thereby causing more AD/CVD cases to be initiated in the United States. Under the CDSOA, there seems to be AD/CVD cases filed by companies whose problems are more about inefficiency and uncompetitiveness. The money distributed under the CDSOA, which the WTO ruled illegal, allows these otherwise inefficient/uncompetitive companies to stay in business to the detriment of U.S. consumers at large. By distributing money to these companies, the CDSOA allows them to produce and sell their goods at a greater cost than they are worth, while depriving the U.S. consumers of opportunities to purchase the equivalent products at the right market price. The CDSOA has distributed money to only a small number of U.S. companies. In fact, two companies alone have received more than one third of the money distributed so far.

This analysis also expresses concerns over increased transaction costs, such as the cost of lawyers, economists, and lobbyists, and the social costs associated with implementing the distribution of duty revenues. The CDSOA thus negatively affects the U.S. economy.

3. Continued disregard of the WTO ruling undermines the credibility of the rule-based trading system

The dispute settlement system is a fundamental pillar of the WTO in providing security and predictability to the multilateral trading system. Its credibility depends on its strict observance by the Members. The failure of the United States, a leading Member of the WTO, to fully comply with its WTO obligations within the time limit set by the WTO is compromising the credibility of the United States. This in turn undermines the credibility of the WTO, which embodies a regime of a rule-based trading system, and would harm the interests of all WTO Members, including the United States.

The WTO ruling does not deprive U.S. companies and workers of legitimate protection against unfair competition caused by dumping or subsidization. These trading practices can be adequately addressed by the imposition of AD/CVD. And if, over time, illegal dumping or subsidization increases and the duty initially imposed becomes insufficient to neutralize it, additional legal recourses are available. WTO rules allow for the review of the level of the duty and for making any necessary adjustments, thus canceling out any unfair competitive advantage that could result from increasing the level of dumping or subsidization.

Some have argued that this dispute could be resolved by "legalizing" the CDSOA through an amendment of the anti-dumping and subsidy agreements in the ongoing multilateral negotiations under the WTO. Many WTO members, including Japan, are opposed to such a move. Moreover, such a change to the WTO agreements would be fundamentally misguided and harm the U.S. interests as well. The inevitable consequence of "legalization" of the disbursement of anti-dumping and countervailing duties to subsidize those uncompetitive beneficiary companies would only result in a proliferation of AD/CVD actions. This would certainly have a serious negative impact on world trade, including on U.S. exports.

4. Actions by U.S. Trading Partners

Given the continued U.S. non-compliance with the WTO ruling, eight WTO Members saw no other option than to protect their rights by requesting that the WTO grant the authorization to take retaliatory measures. These eight WTO Members, which are Brazil, Canada, Chile, the European Union, India, Japan, Korea and Mexico, represent 71% of total U.S. exports and 64 % of total U.S. imports. Their requests were approved by the DSB on November 26, 2004.[4] This is the first time in the history of the WTO that so many Members have been authorized to impose retaliation against the same measures found to be inconsistent with the WTO rules.

Since May 1, 2005, Canada and the EU have been applying their retaliatory measures, while Mexico put into force its retaliatory measures on August 18, 2005. The Government of Japan has decided to take its own measures starting from September 1, 2005.

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[3] "Economic Analysis of The Continued Dumping and Subsidy Offset Act of 2000", attachment of a letter from Congressional Budget Office to Bill Thomas, Chairman of Committee on Ways and Means, U.S. House of Representatives, in March 2, 2004.

[4] In the case of Chile, the authorization was granted on December 17, 2004.

5. Conclusion

We are responsible for the maintenance of a credible multilateral trading system, and should observe the WTO rules. Since the United States takes a front seat in the world's trading system, it should respect and lead this system, which delivers great benefits to the world's economy as a whole. As explained above, the CDSOA wreaks a variety of adverse effects on the U.S. economy. Given these concerns and negative consequences, the Government of Japan strongly believes that the CDSOA must be repealed and therefore supports Bill H.R. 1121.

Grocery Manufacturers Association
Washington, DC 20037
September 1, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1104 Longworth House Office Building
Washington, DC 20515–6354

Dear Mr. Chairman:

The Grocery Manufacturers Association (GMA) appreciates this opportunity to provide information in support of H.R. 1121, to repeal section 754 of the Tariff Act of 1930, the Continued Dumping and Subsidy Offset Act of 2000, also known as the Byrd Amendment.

GMA is the world's largest association of food, beverage and consumer product companies. With U.S. sales of more than 500 billion dollars, GMA member companies employ more than 2.5 million workers in all 50 states.

In August 2004, the WTO granted eight WTO Members the right to retaliate to more than $150 million against the U.S. for failing to comply with an earlier WTO dispute settlement ruling on the Continued Dumping and Subsidy Offset Act of 2000, the so-called "Byrd Amendment" As you may recall, the Byrd Amendment allows domestic companies to collect duties directly from successful anti-dumping and countervailing duty cases. In 2003, the WTO ruled that the distribution of these duties was an illegal subsidy and gave the U.S. until December 2003 to comply with the ruling.

On May 1, 2005, Canada and the EU began to retaliate against U.S. products in response to our continued failure to repeal the Byrd Amendment. Canada has imposed a 15 percent surtax on U.S. live swine, cigarettes, oysters and certain specialty fish. The EU retaliation has focused heavily on apparel and footwear. On August 18, 2005, Mexico began to impose its $20.9 million retaliation, targeting chewing gum, wines and milk-based products. The tariff on certain milk-based products will increase to 30 percent. Brazil, Chile, India, Japan and Korea have also signaled their intent to retaliate but have yet to put forward definitive lists or products that will be subject to duty increases.

GMA appreciates the efforts of the USTR to date, which since last year has been working with Congress on ways to bring the U.S. into compliance with the WTO ruling. While the total amount of retaliation in relation to the entire U.S. food, beverage and consumer products industry is modest, certain small subsectors are significantly feeling the effects of retaliation and we assume that more of these smaller facilities will be affected, should the remaining countries impose retaliation against targeted industries.

It must be remembered that repeal of the Byrd Amendment would not affect the ability of the United States to enforce its trade laws or to impose duties on countries that are dumping or otherwise unfairly subsidizing products coming into the U.S. market. The Byrd Amendment has simply dealt with how funds collected from such duties have been distributed by the Treasury Department. Implementation of retaliations such as those occurring out of Byrd allow our trading partners to pick and choose which markets they close off to U.S. imports, making Byrd retaliation not only dispute settlement, but also a tool of competitive advantage.

For these reasons, the Grocery Manufacturers Association encourages repeal of the Byrd Amendment and appreciates this opportunity to present our views on this matter.

Sincerely,

Mary Sophos
Senior Vice President, Chief Government Affairs Officer

Hanson Aggregates
San Diego, California 92163
August 23, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to the Committee's July 25, 2005 Press Release, I am writing on behalf of Hanson and its 13,000 employees in the United States to express our strong opposition to the inclusion of H.R. 1121 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 1121 is a highly controversial bill that would repeal the Continued Dumping and Subsidy Offset Act ("CDSOA"). It can by no means be fairly described as a "technical correction" to existing law.

Hanson is an international heavy side building materials company that produces and sells cement, aggregates, ready mix concrete, concrete pipe and precast products, concrete rooftile, asphalt, bricks, and a variety of other products. In the United States, we are headquartered in Dallas, Texas. Including the businesses I manage, Hanson operates a cement plant in California and 53 ready mix batch plants throughout the country, including California and Arizona. In addition, we operate 90 pipe and concrete products plants in 21 states, including Arizona, California, Florida and Texas.

In the late 1980's, our industry was severely damaged by dumped imports of cement from Mexico. The unfairly low prices of Mexican cement caused U.S. cement plants to close and took away any incentive to invest in new cement capacity. In 1990, the United States imposed antidumping duties on Mexican cement. Unfortunately, however, the dumping has not stopped. In fact, in the 13 administrative reviews conducted since the order was imposed, the Department of Commerce found that the dumping margin of CEMEX, S.A., the dominant Mexican producer, has averaged 63 percent. That means that even with the antidumping order in place, CEMEX's cement prices to customers in Mexico have been 63 percent higher than its cement prices to customers in the United States. The root cause of this unfair pricing behavior—a Mexican cement market that is closed to foreign competition—also has not changed since the antidumping order was imposed.

CDSOA both discourages continued dumping and also compensates the victims of such continuing unfair trade. The law merely provides that antidumping duties are distributed to the supporters of the original antidumping petition. If and when the dumping stops, so do the CDSOA distributions. Thus, CDSOA has no impact on fairly traded imports.

CDSOA distributions to date under the cement antidumping order have been very limited because the Mexican Government has refused to appoint NAFTA panelists to hear pending appeals of administrative reviews going back a number of years. It would be extremely unfair to U.S. cement producers to repeal CDSOA before these very old entries are liquidated and available for distribution. When distributed, these duties will help U.S. cement producers to invest in new production capacity and to create new jobs.

Contrary to what some consumers of unfairly priced imports have claimed, CDSOA has not led to the filing of frivolous antidumping petitions. In fact, the filing of new petitions has fallen sharply since CDSOA was enacted in 2000.

Finally, it makes no sense to repeal CDSOA while negotiators in Geneva are considering a U.S. proposal to amend the WTO Antidumping Agreement to clarify that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, your Committee should urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering these comments.

Sincerely,

Mark T. Long
Vice President and General Manager

Hart's Manufacturing Committee
Collierville, Tennessee 38017
August 17, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to the Ways and Means Committee's July 25, 2005 Press Release, Hart's Manufacturing Company and its employees strongly oppose H.R. 1121 and its inclusion in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. The Continued Dumping and Subsidy Offset Act ("CDSOA") must be preserved to maintain effective remedies against unfairly traded imports. Congress should not treat its revocation as some sort of "technical correction."

Hart's Manufacturing Company has facilities at Collierville, Tennessee and Corning, Arkansas. We are manufacturers of budget priced bedroom furniture and are in our 60th year of operation.

Unfairly priced imports from China contributed to the closing of over 65 U.S. wooden bedroom furniture factories during 2001–2004. These factories employed over 18,000 workers. Our industry's antidumping petition was opposed by over 30 law firms that represented the Chinese Government and over 100 Chinese companies. The Chinese Government even helped pay the legal fees of the Chinese companies. In 2004, we won our case, and the United States imposed antidumping duties to offset the dumped prices. Despite the antidumping order, however, we fear that some Chinese furniture exporters are continuing to dump their product in the United States at very low prices. They simply absorb the duties rather than adjust their prices to non-injurious levels as the law was intended

We need CDSOA to ensure that our antidumping order has its intended effect. CDSOA discourages foreign exporters from continuing to dump, because they know that their U.S. competitors are the ones that receive the duties they pay. In addition, if foreign producers choose to continue to dump, then CDSOA compensates the companies that are hurt by the continuing unfair trade practices.

One of the criticisms leveled at CDSOA is that it encourages the filing of frivolous petitions. This is completely untrue. CDSOA was certainly not the reason that our industry filed its antidumping petition. In fact, we understand that the number of cases filed has gone down considerably since CDSOA was enacted.

Finally, Congress should not consider repealing CDSOA at a time when negotiators in Geneva are considering a U.S. proposal to amend the WTO Antidumping Agreement to clarify that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, your Committee should urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thomas W. Hart
Owner

Higdon Furniture Co.
Quincy, Florida 32353
August 26, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to the Ways and Means Committee's July 25, 2005 Press Release, Higdon Furniture Co., Inc., and its 180 employees strongly oppose H.R. 1121 and its inclusion in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. The Continued Dumping and Subsidy Offset Act ("CDSOA")

must be preserved to maintain effective remedies against unfairly traded imports. Congress should not treat its revocation as some sort of "technical correction."

Higdon Furniture is located in Quincy, Florida. Our family owned furniture manufacturing plant was started in 1953. We provide a rural county with 180 much needed jobs. Unfairly priced imports from China contributed to the closing of over 65 U.S. wooden bedroom furniture factories during 2001–2004. These factories employed over 18,000 workers. Our industry's antidumping petition was opposed by over 30 law firms that represented the Chinese Government and over 100 Chinese companies. The Chinese Government even helped pay the legal fees of the Chinese companies. In 2004, we won our case, and the United States imposed antidumping duties to offset the dumped prices. Despite the antidumping order, however, we fear that some Chinese furniture exporters are continuing to dump their product in the United States at very low prices. They simply absorb the duties rather than adjust their prices to non-injurious levels as the law was intended

We need CDSOA to ensure that our antidumping order has its intended effect. CDSOA discourages foreign exporters from continuing to dump, because they know that their U.S. competitors are the ones that receive the duties they pay. In addition, if foreign producers choose to continue to dump, then CDSOA compensates the companies that are hurt by the continuing unfair trade practices. CDSOA distributions will enable our company to preserve U.S. manufacturing jobs.

One of the criticisms leveled at CDSOA is that it encourages the filing of frivolous petitions. This is completely untrue. CDSOA was certainly not the reason that our industry filed its antidumping petition. In fact, we understand that the number of cases filed has gone down considerably since CDSOA was enacted.

Finally, Congress should not consider repealing CDSOA at a time when negotiators in Geneva are considering a U.S. proposal to amend the WTO Antidumping Agreement to clarify that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, your Committee should urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering our comments.

J. Warren Higdon IIII
President

Hilex Poly Co., LLC
Hartsville, South Carolina 29550
August 30, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to your July 25, 2005 Press Release, I am writing on behalf of Hilex Poly Co., LLC and its 800 employees to express our strong opposition to the inclusion of H.R. 1121 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 1121 would repeal the Continued Dumping and Subsidy Offset Act ("CDSOA"). The bill is highly controversial. It cannot be fairly described as a "technical correction" to existing law.

Hilex Poly Co., LLC, headquartered in Hartsville, SC, operates five plastic bag making plants located in the states of North Carolina, Pennsylvania, Indiana, Texas and Idaho.

Last year, our industry won antidumping cases against polyethylene retail carrier bags ("PRCBs") from China, Malaysia, and Thailand. With the antidumping orders now in place, we are concerned that some exporters are continuing to dump, absorbing the antidumping duties, and refusing to raise prices to non-injurious levels. CDSOA both discourages continued dumping and also compensates the victims of such continuing unfair trade. The law merely provides that antidumping duties are distributed to the supporters of the original antidumping petition. If and when the dumping stops, so do the CDSOA distributions. Thus, CDSOA has no impact on fairly traded imports.

Contrary to false claims of some consumers of unfairly priced imports, CDSOA has not led to the filing of frivolous antidumping petitions. In fact, the filing of new petitions has fallen sharply since CDSOA was enacted in 2000. Our industry filed our antidumping petitions because we were being injured by unfairly priced imports, not because of CDSOA.

Finally, it makes no sense to repeal CDSOA while negotiators in Geneva are considering a United States proposal to change the WTO Antidumping Agreement to clarify that that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, Congress should continue to urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering these comments.

Sincerely,

David C. Booher
President

Home Decorators Collection, Inc.
Hazelwood, Missouri 63042
September 1, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

On behalf of Home Decorators Collection, I would like to thank you for the opportunity to comment on H.R. 1121, legislation to repeal the "Continued Dumping and Subsidy Offset Act" (CDSOA), commonly known as the Byrd Amendment. Our company, which relies on imported products, strongly supports this legislation's inclusion in the miscellaneous trade bill.

We are based in Hazelwood, Missouri, just outside of St. Louis. We have over 1,000 employees and annual sales of close to $200 million. The majority of our sales are from our catalogs and websites but we have two stores and we plan on opening several more. Our tagline and mantra is "Where value and selection come home."

To live by our mantra, we offer thousands of products sourced from all parts of the world. We import goods from many countries including: China, Brazil, Indonesia, India, and Malaysia, among others. Close to 40% of our products are purchased from U.S. suppliers. We love to buy U.S. products whenever we can. However, we select products that will appeal to our customers, but they must be at a good price. Customers demand that we deliver on this promise. Frequently, imported products have more appealing styles and better values than domestic products.

We support H.R. 1121's inclusion for the following reasons:

- The Byrd Amendment creates a clear incentive to file antidumping and countervailing duty cases. U.S. companies in line to receive payments have a clear incentive to include more products within the scope of cases, including products not even made in the United States. Consumers see cases filed because of the promise of Byrd money.
- Those who filed and support trade petitions are not required to use the Byrd money they receive for capital investments, job creation, worker retraining or improving U.S. competitiveness. There are no provisions in the law for any particular use for these funds. These companies effectively receive a government handout and may insert the funds directly into their bottom lines.

Congress must consider repeal of the Byrd Amendment as quickly as possible. The inequities suffered by U.S. consuming industries are real and growing. Moreover, retaliation by our trading partners is increasing. Congress can avoid this looming catastrophe by acting promptly to repeal the Byrd Amendment.

The Byrd Amendment is bad policy for the United States economy and the American people. We urge the Committee to incorporate the legislation introduced by Mr. Ramstad and Mr. Shaw into the Miscellaneous Trade Bill and to attach it to any viable legislation to assure its being enacted without delay.

We appreciate the opportunity to supply these comments for the Subcommittee.

Thomas K. Wilcher
Chief Operating Officer

Honeyland, Inc.
Wolf Point, Montana 59201
August 30, 2005

Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Our company name is Honeyland, Inc. We are located in Montana. The President and manager of Honeyland, Inc. is a 3rd generation member of the family business. The original operation was established in Montana in 1922. A companion company, Northern Bloom Honey was purchased in 1990, which operates in conjunction with Honeyland, Inc.

The two companies employ five full time employees, and seven seasonal employees. The two companies participate in honey production during the summer months. A portion of the bee colonies are moved to California to provide pollination services for the almond growers in California during February and early March. After the almond bloom, the bees are moved to the state of Washington to provide pollination service for the apple growers. These bee colonies are returned to Montana in late April or early May.

Our companies wish to express strong opposition to H.R. 1121 in the Miscellaneous Tariff Bill, which calls for repeal of the Byrd Amendment, as well as our opposition to H.R. 2473 which would alter the calculation of "all others" rate in the Anti Dumping Countervailing Duties which would reduce the amount of duties collected and distributed under the CDSO.

The funds we received, as a result of the Byrd Amendment, last December, which were distributed to us as members of Sioux Honey Association made it possible for our companies to set up a "Health Savings Account" for our employees. The employees appreciate the formation this plan, and are active in participating in it.

Our cost of operation and production of honey are considerably greater than the countries that import large volumes of honey into this country. Without the Byrd Amendment it would be most difficult to continue the beekeeping operation of our companies, and to provide the service of pollination for agriculture crops that require honeybee pollinators.

Thank you for the opportunity to submit this statement.

Harry Rodenberg
Vice President

Idaho Truss & Component Co.
Meridian, Idaho 83642
August 30, 2005

To the Committee:

The Byrd Amendment discourages international trade and encourages protectionist damages to the economy as whole. I am writing to strongly support repeal of this legislation.

Idaho Truss & Component Co. produces structural building components—pre-fabricated wall systems, roof trusses and floor trusses—which consist almost entirely of softwood lumber and light gauge steel connector plates. These products are used in the overwhelming majority of residential, multi-family and light commercial buildings constructed in the United States.

Two-tiered Market for lumber harms U.S. companies.

The Byrd Amendment harms my company's competitiveness. The CVD/AD structure is currently a serious hindrance to any progress on a long-term, negotiated settlement in the lumber trade dispute with Canada. The two-tiered market for lumber (lumber is cheaper in Canada than in the U.S.) gives our competitors from north of the U.S./Canada border a significant advantage in bidding on work in the United States. Furthermore, volatility of the prices of softwood lumber has increased dra-

matically since the last trade agreement with Canada expired in 2001. This volatility costs companies like mine money all the time because costs on future projects cannot be accurately estimated.

I am also president of the Wood Truss Council of America, and as such I have seen first-hand the damaging effects of the prolonged trade dispute with Canada on many component companies across the whole northern half of the United States. There are a number of sad and unnecessary cases of established, often family-run, businesses that are no longer in business because of the effects of the trade dispute. There are several others of major component manufacturing investments being made in Canada instead of the United States because of the competitive advantage of buying lumber in Canada and selling trusses in the United States.

Damages the prospects for free trade across the board.

The Byrd Amendment does two very bad things to free trade. First, it encourages the filing of anti-dumping claims by U.S. companies. Second, the accumulation of massive amounts of cash, which represents a massive "payday" for the companies that are party to the filing, greatly discourages the settlement of any trade dispute, because then the settlement of the issue takes a back seat to the distribution of the funds.

In cases such as the lumber trade dispute and the $4 billion balance of CVD/AD duties collected, the distribution of the funds would have the further extremely negative effect of disturbing the competitive balance of the industries in which not all companies are part of the filing. The petitioning companies in this case represent only 54% of U.S. softwood lumber production. Enriching these companies by $4 billion would create an artificial economic advantage. One that has been garnered not by increasing competitiveness, but by being litigious.

The Byrd amendment harms international trade, and its destructive effect on the softwood lumber trade negotiations with Canada harms my company directly. It was passed without the benefit of a proper hearing process in the first place, which only emphasizes how ill considered this piece of legislation is. Please repeal this bill.

Thank you for the opportunity to provide my point of view. If you have any questions or need further information, please feel free to contact me. I would be pleased to testify at any hearing.

Kendall R. Hoyd
President

Independent Steelworkers Union
Weirton, West Virginia 26062
September 2, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

The Independent Steelworkers Union ("ISU") represents over 2,000 steelworkers at the Weirton facility of Mittal Steel USA, in Weirton, West Virginia. ISU is grateful for the chance to submit comments on bills being considered for inclusion in the miscellaneous trade package. In particular, ISU is interested in H.R. 1068, "A bill to maintain and expand the steel import licensing and monitoring program," H.R. 1121, "A bill to repeal section 754 of the Tariff Act of 1930," and H.R. 2473, "A bill to amend the Tariff Act of 1930 relating to determining the all-others rate in antidumping cases."

ISU supports the inclusion of H.R. 1068 in the miscellaneous trade bill and urges Congress to pass it into law. H.R. 1068 is an important bill and one that should not attract significant controversy. H.R. 1068 simply expands and makes permanent the steel import monitoring program that was established as part of the president's steel safeguard action in 2002. This successful program has enabled U.S. producers and policymakers to stay current on shifts in trade flows in the steel sector and, when necessary, to take appropriate action. Making the program permanent will help prevent future import surges like those in the late 1990s, which resulted in thousands of lost steelworker jobs. Expanding the program as proposed in H.R. 1068

would provide for complete coverage of all steel mill products, allowing for a more comprehensive analysis of steel imports. H.R. 1068, which modifies and expands a successful, existing program, is representative of the sort of bill that logically ought to be included in the miscellaneous trade package. ISU supports its inclusion and enactment.

H.R. 1121 and H.R. 2473, however, are bills that should not be included in the miscellaneous trade package. These bills, if passed, would significantly weaken U.S. trade remedy laws and are thus likely to attract a great deal of opposition. The U.S. needs strong, effective trade remedy laws to ensure a level playing field for U.S. manufacturers and workers. Given a fair market, the U.S. steel industry can compete with any foreign rivals. However, ISU is all too familiar with the effect of surges of steel imports at dumped and subsidized prices. That is why the trade laws must remain in place, to prevent and offset unfair trade and to provide a remedy for injury caused by it. The miscellaneous trade bill should not be used to chip away at these critical laws. That is why H.R. 1121 and H.R. 2473 must be excluded from the package.

H.R. 1121 would repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"). CDSOA is a program that distributes funds to certain domestic parties that have been injured by dumped and subsidized imports for eligible expenditures on plant, equipment, and people. The source of the funds for CDSOA is antidumping and countervailing duties, which are collected when dumping or subsidization continues after AD/CVD orders are imposed. Where dumping or subsidization stops after an order is issued, there are no funds to distribute. That means the AD/CVD orders are working as intended. CDSOA does not change the methodology used by Commerce to calculate dumping margins or subsidy rates and it has no effect on the amount of duty that must be paid. The program simply distributes funds to injured parties, pursuant to generally applicable criteria, when unfair trade practices do not cease. There is broad bi-partisan support among Members of Congress and the public for CDSOA, and any legislation to repeal the law would attract substantial controversy and strong opposition. In ISU's view, H.R. 1121 is not a bill that should be included in the miscellaneous trade package.

H.R. 2473 proposes to amend the antidumping law to delete the word "entirely" from subparagraphs (A) and (B) of section 735(c)(5) of the Tariff Act of 1930. This is hardly a technical amendment, however. If enacted, H.R. 2473 would severely limit Commerce's ability to effectively enforce the antidumping law. In effect, H.R. 2473 would make it nearly impossible in most cases for Commerce to calculate the dumping margin for non-investigated exporters, known as the "all-others" rate. The "all-others" rate is a weighted average of dumping margins calculated for individually investigated exporters. Under current law, dumping margins that are based *entirely* on "facts available" data are not included in the average. "Facts available" refers to data used by Commerce to calculate a dumping margin when a respondent company does not supply all the actual company-specific that is needed. Margins that are based only partially on facts available are used in the calculation of the "all-others" rate. In practice, this is necessary because many of the dumping margins Commerce calculates are based on at least some "facts available" data.

H.R. 2473 would prohibit Commerce from using any dumping margins in the "all-others" rate calculation that are based on any amount of "facts available" data. In most cases, this would effectively leave Commerce with no margins to use in calculating an "all-others" rate. Consequently, H.R. 2473 would create serious administrative difficulties for the Department, necessarily weakening the antidumping law. For these reasons, H.R. 2473 will almost certainly attract significant controversy and would, for practical purposes, not be administrable by Commerce.

ISU also finds it disturbing that the apparent purpose of H.R. 1121 and H.R. 2473 is to implement World Trade Organization ("WTO") panel and Appellate Body decisions that have gone against the U.S. That purpose is inconsistent with the purpose of the miscellaneous trade bill, which has historically been non-controversial legislation. Furthermore, Congress and the Administration have repeatedly criticized the overreaching of WTO panels and the Appellate Body, in these disputes in particular, and have consistently maintained that, in the decisions on CDSOA and the "all-others" rate, new obligations were created that the U.S. never agreed to. These new rules are nowhere to be found in the text of any WTO Agreement. Congress has also previously called for the Administration to resolve these disputes through negotiations at the WTO. Those negotiations are in progress as part of the Doha Round and the Administration should be allowed to work within that process to see whether, through negotiation, the problems created by panel and Appellate Body overreaching can be corrected. Consequently, it would not be appropriate to include H.R. 1121 and H.R. 2473 in the miscellaneous trade package.

ISU appreciates the Subcommittee accepting these comments and taking them into consideration during its deliberations.

Respectfully submitted,

Mark Glyptis
President

International Dynasty Corp.
Houston,Texas 77099
September 1, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

On behalf of International Dynasty, I would like to thank you for the opportunity to comment on H.R. 1121, legislation to repeal the "Continued Dumping and Subsidy Offset Act" (CDSOA), commonly known as the Byrd Amendment. Our company, which relies on imported products. strongly supports this legislation's inclusion in the miscellaneous trade bill.

Headquartered in [Houston Texas], [International Dynasty] has [100 employees with 2004 sales at $100 million. We are the distributor of living rooms set bedroom set and dining room set

We support H.R. 1121's inclusion for the following reasons:

- The Byrd Amendment creates a clear incentive to file antidumping and countervailing duty cases. U.S. companies in line to receive payments have a clear incentive to include more products within the scope of cases, including products not even made in the United States. Consumers see cases filed because of the promise of Byrd money. Other cases include products not even produced here.
- The Byrd Amendment actually helps very few companies. More than half of the Byrd Amendment payments in 2004 went to only *nine* companies, and more than 80 percent of the payments went to only *44* companies nationwide.
- The prospect of Byrd Amendment money discourages settlement of antidumping and countervailing duty cases through suspension agreements, and creates an incentive for petitioners to broaden the scope of cases, often including products not even made in the United States or made in inadequate quantities. As a result, cases are broader, last longer and do more damage to consuming industries.
- Those who filed and support trade petitions are not required to use the Byrd money they receive for capital investments, job creation, worker retraining or improving U.S. competitiveness. There are no provisions in the law for any particular use for these funds. These companies receive a government handout and may insert the funds directly into their bottom lines.
- Byrd Amendment distributions can actually encourage the loss of American jobs offshore. Large U.S. Byrd Amendment recipients import products from countries that are subject to dumping orders. Their Byrd Amendment distributions can offset the dumping duties paid, giving the company an exemption from the impact of antidumping laws. They, unlike non-Byrd recipients, can import dumped products from their affiliates overseas without having to bear the financial burden of antidumping duties, since the U.S. government reimburses them.

Congress must consider repeal of the Byrd Amendment as quickly as possible. The inequities suffered by U.S. consuming industries are real and growing. Moreover, retaliation by our trading partners is increasing. Congress can avoid this looming catastrophe by acting promptly to repeal the Byrd Amendment.

The Byrd Amendment is bad policy for the United States economy and the American people. We urge the Committee to incorporate the legislation introduced by Mr. Ramstad and Mr. Shaw into the Miscellaneous Trade Bill and to attach it to any viable legislation to assure its being enacted without delay. This bill was adopted in the dead of night—it should be repealed in broad daylight with the greatest possible speed.

We appreciate the opportunity to supply these comments for the Subcommittee.

Sophia Chen
General Manager

International Foodservice Distributors Association
Falls Church, Virginia 22046
September 1, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the International Foodservice Distributors Association, thank you for the opportunity to comment on trade issues under consideration for legislation by the Committee. IFDA strongly urges the Committee to include HR 1121 to repeal the Continued Dumping and Subsidy Offset Act, commonly known as the Byrd Amendment, in any eventual overall legislation.

IFDA is a Washington, D.C. based trade organization representing foodservice distributors throughout the U.S., Canada, and internationally. IFDA's 130+ members include broadline, systems, and specialty foodservice distributors that supply food and related products to restaurants, institutions, and other food away from home foodservice operations. IFDA members operate more than 550 facilities, and sell more than $75 billion in food and related products to the fastest growing sector in the food industry.

The Byrd amendment transfers money collected from the imposition of anti-dumping duties from the government to the companies that petition for those duties. Contrary to its original intent to protect American producers, however, the legislation does little but encourage the filing of such petitions resulting in reduced competition and opening U.S. exports to potential retaliation from our trading partners.

Very few companies receive benefits with more than half the payments last year going to only 9 companies, and 80 percent of the money going to only 44 companies. Thus, the legislation has become little more than a government handout to a few companies that actually has the impact of undermining American manufacturing.

With a clear incentive to file petitions, companies in line to benefit have sought duties on a wide variety of products, including many not even made in the United States. It has also made importing raw materials more difficult and financially risky, increasing uncertainty for businesses and increasing costs for consumers. Consuming industries have very little opportunity to participate meaningfully in decisions, making anti-dumping laws more arbitrary, increasing duties and making such orders harder to revoke and change.

IFDA strongly urges the inclusion of HR 1121 to repeal the Byrd Amendment in any eventual legislation drafted by the Committee. We appreciate this opportunity to comment on this issue and look forward to working with the Committee to pass this important legislation.

David French
Senior Vice President, Government Relations

Japan Machinery Center for Trade and Investment
Tokyo, Japan 105–0011
August 29, 2005

The Hon. E. Clay Shaw
1236 Longworth House Office Building
Washington, DC 20515
Fax: 202–225–8398

Dear Chairman Shaw:

On behalf of the Board of Directors of the Japanese Machinery Center for Trade and Investment (JMC) and its 300 member corporations, I write to express our strong support for the inclusion of H.R. 1121, legislation to repeal the Continued

Dumping and Subsidy Offset Act (CDSOA), in the 2005 miscellaneous trade bill. We sincerely appreciate your initiative to include this important provision among the bills that the Subcommittee will consider.

JMC is a non-profit organization of Japan's major electronics and machinery manufacturers, trading companies and engineering companies. JMC's activities emphasize multilateral trade and investment rules, bilateral Free Trade Agreements, environmental protection regulations, national industrial policies, trade related security measures, and trade insurance. In 2004, the Japanese machinery sector accounted for $103.6 billion in U.S. exports, representing over 80 percent of total Japanese exports to the United States during that year.

JMC supports repeal of the CDSOA (the "Byrd Amendment") because the law is inimical to U.S. credibility in the multilateral trading system, to U.S and non-U.S. businesses and to consumers:

- **U.S. International Leadership and the Multilateral Trading System.** The United States is the WTO's most important member, and thus U.S. compliance with the WTO Dispute Settlement Body's ruling on the Byrd Amendment is indispensable for the integrity of the multilateral trade regime. The United States' leadership among the global community is faltering in light of several adverse WTO rulings with which the United States has, thus far, refused to comply. In the eyes of the United States' international trading partners, the Byrd Amendment is the most important of these outstanding measures. Its repeal would send a positive signal to the international trading community just before the WTO's Hong Kong Ministerial—a meeting critical to the success of not only the "Doha Round," but also the multilateral trading system as a whole.
- **U.S. Exporters and the World Economy.** The failure of Congress to repeal this WTO-illegal measure has triggered the imposition of retaliatory measures from the United States' major trading partners, harming U.S. exporting interests and disrupting world trade. In recent months, the European Union, Canada, Japan and Mexico announced that they will impose retaliatory tariffs against U.S. imports totaling almost $130 million. The EU, Canada and Mexico have already begun collecting these duties, and Japan will begin to do so on September 1. Brazil, Chile, India and Korea are not far behind. These measures will cause significant harm to U.S. exporting interests and lead to massive market disruptions.
- **Foreign Exporters and the U.S. Economy.** According to a 2004 U.S. Congressional Budget Office (CBO) study, the distributions mandated by CDSOA are detrimental to foreign exporters and the United States' overall economic welfare: (1) they encourage the filing of more antidumping and countervailing-duty (AD/CVD) cases, resulting in more duties that, on balance, harm the economy; (2) they subsidize the firms receiving them, preventing resources from flowing to higher-value activities in other firms and industries; and (3) they increase the private and public cost associated with the operation and implementation of the laws. Higher litigation costs and more tariffs on foreign goods cause direct harm to foreign exporters. This includes some of JMC's members, many of whom have subsidiaries in the United States. Indeed, in 2003 Japanese investment in the United States was approximately $165 billion, and Japanese manufacturing companies employed about 334,300 Americans in 2002. The failure of Congress to repeal the Byrd Amendment would injure not only their economic well-being, but also the excellent relationships that our member firms have established and maintained in the United States over the last several decades.

Given the serious economic harm that the Byrd Amendment causes, and its concomitant harm to foreign exporters, U.S. trade relations and the multilateral trading system as a whole, JMC respectfully urges members of the Trade Subcommittee to support the inclusion of H.R. 1121 in the 2005 miscellaneous trade bill and to work for the ultimate repeal of the Byrd Amendment as soon as possible. The law is a blemish on the United States' strong record of leadership in the international trading community. It harms the United States' general economic welfare and its largest trading partners. We ask the U.S. Congress to act now before the Byrd Amendment causes further damage.

Sincerely yours,

Osamu Morimoto
Executive Managing Director

JMC Membership
A&T Corporation

Accuphase Laboratory, Inc.
Aida Engineering, Ltd.
Akibo Corporation
Alstom K.K.
Altia Hashimoto Co., Ltd.
Amita Machines
Anzen Motor Car Co., Ltd.
Arimitsu Industry Co., Ltd.
Asahi Kasei Chemicals Corporation
Asia Trading & Service Co., Ltd.
Asyst Shinko, Inc.
Babcock-Hitachi Kabushiki Kaisha
Bailey Japan Co., Ltd.
Banzai, Ltd.
Brother Industries, Ltd.
Canon Finetech Inc.
Canon Inc.
Casio Computer Co., Ltd.
Central Automotive Products Ltd.
Century Yamakyu Corporation
Chisso Engineering Co., Ltd.
Chiyoda Corporation
Chlorine Engineers Corp. Ltd.
Chori Co., Ltd.
Chugai Ro Co., Ltd.
CKD Corporation
CKS Corporation
Clarion Co., Ltd.
Creative World Corporation
Daido Steel Co., Ltd.
Daiei Papers International Corporation
Daihen Corporation
Daikin Industries, Ltd.
Denki Shoji Co., Ltd.
Denon Ltd.
Earthtechnica Co., Ltd.
Ebara Corporation
Electric Power Development Co., Ltd.
Enshu Ltd.
Far East Development Corp.
FDK Corporation
Fuji Electric Holdings Co., Ltd.
Fuji Electric Systems Co., Ltd.
Fuji Heavy Industries Ltd.
Fuji Machine Mfg. Co., Ltd.
Fuji Photo Film Co., Ltd.
Fuji Technica Inc.
Fujitsu General Limited
Fujitsu Limited
Funai Electric Co., Ltd.
Fuso International Co., Ltd.
Gaio Technology Co., Ltd.
General Electric Japan, Ltd.
Hamai Co., Ltd.
Hanwa Co., Ltd.
Harada Bussan Kaisha, Ltd.
Hirata Valve Industry Co., Ltd.
Hisaka Works, Ltd.
Hitachi Construction Machinery Co., Ltd.
Hitachi High-Technologies Corporation
Hitachi Kokusai Electric Inc.
Hitachi Maxell, Ltd.
Hitachi Plant Engineering & Construction Co., Ltd.
Hitachi Via Mechanics, Ltd.
Hitachi Zosen Corporation
Hitachi Zosen Fukui Corporation
Hitachi, Ltd.
Hmt Consort Ltd.

Hokuetsu Industries Co., Ltd.
Homerton (Japan) Co., Ltd.
Hosoda Trading Co., Ltd.
Hotta Corporation
Howa Machinery, Ltd.
Ikegai Corporation
Ikegami Koeki Co., Ltd.
International Services Corporation
Iseki & Co., Ltd.
Ishikawa Seisakusho, Ltd.
Ishikawajima-Harima Heavy Industries Co., Ltd.
Iss Machinery Services Limited
Itochu Corporation
Itochu Sanki Corporation
Itochu Texmac Corporation
Iwatani International Corporation
Iyasaka Limited
Japan AE Power Systems Corporation
Japan Machinery Company
Japan Overseas Rolling Stock Association
Japan Radio Co., Ltd.
Japan Ship Exporters' Association
Japan Steel Tower Co., Ltd.
JFE Engineering Corporation
JFE Shoji Trade Corporation
JFE Steel Corporation
JGC Corporation
JP Steel Plantech Co.
JTC Corporation
Kaji Technology Corporation
Kanai Juyo Kogyo Co., Ltd.
Kanematsu Corporation
Kanematsu Kgk Corp.
Kato Works Co., Ltd.
Kawajyu Shoji Co., Ltd.
Kawasaki Heavy Industries, Ltd.
Kawashima-Koki Co., Ltd.
Kenwood Corporation
Keyser Mercantile Co.,(Japan) Ltd.
Kitamura Machinery Co., Ltd.
Kobe Steel, Ltd.
Kobelco Construction Machinery Co., Ltd.
Kobelco Cranes Co., Ltd.
Kobelco Eco-Solutions Co., Ltd.
Komatsu Forklift Co., Ltd.
Komatsu Ltd.
Konica Minolta Business Expert, Inc.
Konica Minolta Business Technologies, Inc.
Kowa Co., Ltd.
Koyo Seiko Co., Ltd.
Kubota Corporation
Kuraray Co., Ltd.
Kurimoto, Ltd.
Kurita Water Industries Ltd.
Kyocera Mita Corporation
Kyokuto Boeki Kaisha, Ltd.
M.C. Trading, Ltd.
Mamiya-Op Co., Ltd.
Marlux International Corporation
Marubeni Corporation
Marubeni Power Systems Corporation
Marubeni Protechs Co., Ltd.
Marubeni Tekmatex Corporation
Maruzen Corporation
Matsuo Bridge Co., Ltd.
Matsushita Battery Industrial Co., Ltd.
Matsushita Electric Industrial Co., Ltd.
Mectron Inc.

Meidensha Corporation
Meiji Sangyo Company
Meiwa Corporation
Mitsubishi Agricultural Machinery Co., Ltd.
Mitsubishi Chemical Engineering Corporation
Mitsubishi Corporation
Mitsubishi Corporation Technos
Mitsubishi Electric Corporation
Mitsubishi Heavy Industries, Ltd.
Mitsubishi Kakoki Kaisha, Ltd.
Mitsubishi-Hitachi Metals Machinery, Inc.
Mitsui & Co. Power Systems Corporation
Mitsui & Co., Ltd.
Mitsui Bussan Plant & Project Corporation
Mitsui Chemicals, Inc.
Mitsui Engineering & Shipbuilding Co., Ltd.
Mitsui Miike Machinery Co., Ltd.
Mitsui Seiki Kogyo Co., Ltd.
Miyairi Valve Mfg. Co., Ltd.
Miyaji Iron Works Co., Ltd.
Mori Seiki Co., Ltd.
Moritani & Co., Ltd.
Muranaka Medical Instruments Co., Ltd.
Murata Machinery, Ltd.
Nachi-Fujikoshi Corp.
Nanyo Corporation
Nasu Denki-Tekko Co., Ltd.
NEC Corporation
Nihon Meiwa Co., Ltd.
Niigata Loading Systems, Ltd.
Niigata Machine Techno Co., Ltd.
Nikon Corporation
Nippei Toyama Corp.
Nippon Conveyor Co., Ltd.
Nippon Pneumatic Mfg. Co., Ltd.
Nippon S.T.Johnson Sales Co., Ltd.
Nippon Sharyo, Ltd.
Nippon Steel Corporation
Nippon Steel Trading Co., Ltd.
Nippon Trading Co., Ltd.
Nippon Yusoki Co., Ltd.
Nippon Zoki Pharmaceutical Co., Ltd.
Nishimura Shokai Co., Ltd.
Nishizawa Ltd.
Nissen Corporation
Nissey Co., Ltd.
Nissin Electric Co., Ltd.
Nomura Micro Science Co., Ltd.
Nomura Trading Co., Ltd.
Noritake Co.,Limited
NSK Ltd.
NTT Corporation
NTT Data Corporation
Nuflare Technology Inc.
Ohmi Industries, Ltd.
Okaya & Co., Ltd.
Oki Electric Industry Co., Ltd.
Okuma Corporation
Olympus Corporation
Olympus Imaging Corp.
Olympus Medical Systems Corp.
Omron Corporation
ORIX Trade International Corporation
Panasonic Communications Co., Ltd.
Panasonic Electronic Devices Co., Ltd.
Pentax Corporation
Pioneer Corporation
Plant Maintenance Corporation

Ricoh Co., Ltd.
Sanki Engineering Co., Ltd.
Sanko Shoji Ltd.
Sanritsu Kosan Co., Ltd.
Sanshin Plywood Mfg. Co., Ltd.
Sanwa Machinery Trading Co., Ltd.
Sanyo Electric Co., Ltd.
Sanyo Sales & Marketing Corporation
Sasakura Engineering Co., Ltd.
Seika Corporation
Seiko Epson Corporation
Sharp Corporation
Shima Trading Co., Ltd.
Shimadzu Corporation
Shin Nippon Koki Co., Ltd.
Shin Nippon Machinery Co., Ltd.
Shin Wako Koeki Co., Ltd.
Shinkikaigiken Co., Ltd.
Shinko Electric Co., Ltd.
Shinko Sangyo Co., Ltd.
Shinko, Ltd.
Shinsho Corporation
Sojitz Corporation
Sojitz Machinery Corporation
Sony Corporation
Sugikuni Industrial Co., Ltd.
Sumikin Bussan Corporation
Sumisho Machinery Trade Corporation
Sumitomo Corporation
Sumitomo Heavy Industries, Ltd.
Sumitomo Metal Industries, Ltd.
Sumitomo Metal Mining Co., Ltd.
Sumitomo Nacco Materials Handling Co., Ltd.
Sumitomo Precision Products Co., Ltd.
T. Chatani & Co., Ltd.
Taiheiyo Engineering Corporation
Taiyo Bussan Co., Ltd.
Taiyo Corporation
Taiyo Electric Co., Ltd.
Taiyo Nippon Sanso Corporation
Takamatsu Machinery Co., Ltd.
Takeuchi Mfg. Co., Ltd.
Takuma Co., Ltd.
Tanaka Industries Co., Ltd.
TCM Corporation
Tecno Frontier Co., Ltd.
Tecno Wasino Co., Ltd.
The Japan Steel Works, Ltd.
The Kiichi Tools Co., Ltd.
The Osaka Printing Ink Mfg. Co., Ltd.
The Rotel Co., Ltd.
TMT & D Corporation
Tohwa Electric Co., Ltd.
Tokuyama Corporation
Tokyo Boeki Ltd.
Tokyo Denpa Company, Ltd.
Tokyo Machine & Tool Co., Ltd.
Tokyo Pulp & Paper International Co., Ltd.
Tomen Corporation
Topy Industries, Ltd.
Toray Engineering Co., Ltd.
Torishima Pump Mfg. Co., Ltd.
Toshiba Consumer Marketing Corporation
Toshiba Corporation
Toshiba Machine Co., Ltd.
Toshiba Machine Machinery Co., Ltd.
Toshiba Mitsubishi-Electric Industrial Systems Corporation
Totsu-Soken Corporation

Toyo Corporation
Toyo Denki Seizo K.K.
Toyo Engineering Corporation
Toyo Hoist Mfg. Co., Ltd.
Toyoda Machine Works, Ltd.
Toyota Industries Corporation
Toyota Tsusho Corporation
Tsudakoma Corp.
Tsukishima Kikai Co., Ltd.
TTK Corporation
Ube Machinery Corporation, Ltd.
Victor Company of Japan, Ltd.
Voith Fuji Hydro K.K.
Voith IHI Paper Technology Co., Ltd.
Y.Ikemura & Co., Ltd.
Yagami International Trading Co., Ltd.
Yamaha Corporation
Yamazaki Mazak Corporation
Yamazaki Mazak Trading Corporation
Yamazen Corporation
Yanmar Diesel Engine Co., Ltd.
Yaskawa Electric Corporation
Yuasa Trading Co., Ltd.

(As of April, 2005)

Kansas Cattlemen's Association
Manhattan, Kansas 66502
September 2, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

The Kansas Cattlemen's Association is submitting these comments in response to the Subcommittee's request for written comments for the record from all parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. The mission of the KCA is to restore profits, self-esteem, freedom, fair trade, trust and community pride back to the farms, ranches and rural communities across Kansas and the nation. Established in 1998, the Kansas Cattlemen's Association represents independent, grass-root cattle producers and feedlot operators on marketing and trade issues. Prior to 1998, independent producers felt as though they were being both underrepresented and misrepresented by current organizations. Thus, the Kansas Cattlemen's Association works hard to sustain the independent agricultural lifestyle for farmers and ranchers. With all of the consolidation currently taking place amongst the agricultural industries, the Kansas Cattlemen's Association focuses on not only maintaining, but enhancing competition within the marketplace for the USA live cattle industry. In its nearly seven years of existence, the Kansas Cattlemen's Association has experienced exponential growth, with current membership numbers approaching 2,100.

The Kansas Cattlemen's Associationwelcomes the opportunity to comment on the bills being considered for inclusion in the miscellaneous package, in particular H.R. 1121, "A bill to repeal section 754 of the Tariff Act of 1930," and H.R. 2473, "A bill to amend the Tariff Act of 1930 relating to determining the all-others rate in antidumping cases."

H.R. 1121 and H.R. 2473 are not well suited for inclusion in the miscellaneous trade package. These bills are likely to attract significant controversy and would constitute major changes to U.S. trade remedy laws. The Kansas Cattlemen's Association supports maintaining strong and effective trade laws. Such laws are necessary to ensure a level playing field for U.S. ranchers, cattlemen, and farmers, as well as U.S. manufacturers and workers. In a fair market, U.S. producers are second to none. When foreign competitors flood the U.S. market with dumped and sub-

sidized goods, however, the trade laws must be in place to provide a remedy for injury caused by unfairly traded imports. The Kansas Cattlemen's Association believes it would be inappropriate to use the miscellaneous trade bill to weaken those laws, but that will be the effect if H.R. 1121 and H.R. 2473 are included in the package.

H.R. 1121 proposes to repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"). CDSOA is a program that distributes antidumping and countervailing (AD/CVD) duties when dumping or subsidization continues after AD/CVD orders are imposed. The existence of continued dumping and subsidization indicates that fair market conditions have not been restored and that the industry that was found to be injured by dumped or subsidized imports is not getting the remedy intended by the statute. CDSOA funds are distributed to certain domestic parties for eligible expenditures on plant, equipment, and people, that is, for reinvesting in their businesses. The program is funded using duties collected on dumped and subsidized imports. If dumping or subsidization stops after an order is issued, there are no funds to distribute. CDSOA does not change how dumping margins or subsidy rates are calculated or how much duty must be paid. The program simply distributes moneys pursuant to generally applicable criteria when unfair trade practices do not cease. CDSOA enjoys wide bi-partisan support among Members of Congress and the public, and any legislation to repeal it would attract substantial controversy and strong opposition. Thus, the Kansas Cattlemen's Associationbelieves that H.R. 1121 should not be included in the miscellaneous trade bill.

H.R. 2473 proposes to amend the antidumping law to delete the word "entirely" from subparagraphs (A) and (B) of section 735(c)(5) of the Tariff Act of 1930. While this may appear to be a small change, in reality, if enacted, H.R. 2473 could prevent Commerce from effectively enforcing the antidumping law. H.R. 2473 would make it virtually impossible for Commerce to calculate "all-others" dumping margins for non-investigated exporters in most cases. The "all-others" rate, which is applied to non-investigated exporters, is a weighted average of dumping margins calculated for individually investigated exporters. Margins based entirely on "facts available" data are excluded from the average under the current law. "Facts available" data is information Commerce uses as a substitute for actual company-specific data when a respondent company does not supply all the data necessary to calculate a dumping margin. Margins that are based only in part on facts available are used to calculate the "all-others" rate because many dumping margins calculated by Commerce are based on at least some "facts available" data.

H.R. 2473 would require Commerce to exclude all dumping margins based on any amount of "facts available" information from the "all-others" rate calculation. The effect of this would be, in most cases, that Commerce would be left with no margins to calculate an "all-others" rate. This would result in serious administrative difficulties for the Department, which would consequently weaken the antidumping law. Hence, H.R. 2473 is likely to attract significant controversy and would likely not be administrable by the Commerce Department.

The Kansas Cattlemen's Association is also concerned that H.R. 1121 and H.R. 2473 appear to be efforts to implement adverse decisions of panels and the Appellate Body of the World Trade Organization ("WTO"). The miscellaneous trade bill is not an appropriate means by which to implement such decisions and enact changes in major U.S. trade laws. Furthermore, Congress and the Administration have been critical of overreaching by WTO panels and the Appellate Body and have expressed concern that the decisions on CDSOA and the "all-others" rate, in particular, created new obligations that the United States never agreed to and which are not found in the text of any WTO Agreement. In addition, Congress has previously directed the Administration to negotiate a resolution of these disputes at the WTO. The Administration is currently engaged in the Doha Round rules negotiations and should be allowed to complete that process, which ought to result in a correction of the problems created by panel and Appellate Body overreaching.

Because H.R. 1121 and H.R. 2473 are both controversial bills that are likely to draw strong opposition, and because their enactment would cut short the ongoing process of negotiations at the WTO, the Subcommittee should deem them inappropriate for inclusion in the miscellaneous trade package.

Again, the Kansas Cattlemen's Association appreciates the opportunity to submit these comments and would like to thank the Subcommittee for taking into account the Kansas Cattlemen's Association views on these two bills discussed above.

Respectfully submitted,

Doran Junk
Executive Director

Keystone Consolidated Industries, Inc.
Peoria, Illinois 61641
September 2, 2005

The United States Congress
House Ways and Means Committee

Keystone Consolidated Industries, Inc. operates facilities in Peoria, Illinois; Sherman, Texas; and Upper Sandusky, Ohio; employing approximately 1,300 people in the manufacture of steel and wire products.

Keystone strongly opposes H.R. 1121 in the Miscellaneous Tariff Bill calling for the repeal of the CDSOA, as well as HR 2473, which alters the calculation of the "all others" rate in AD/CVD cases, which would significantly reduce the amount of duties collected and distributed under CDSOA.

CDSOA funds have helped Keystone's investment to upgrade machinery and equipment to lower the cost of producing our products necessary to remain competitive with the foreign markets. All of our employees have worked very had in this endeavor.

We have worked very hard to become a cost competitive producer; and our employees, as well as the surrounding communities, expect Congress to actively support these manufacturing jobs in the United States by opposing repeal of the CDSOA and to support the U.S. government's sovereign right to distribute taxes as determined by Congress by fighting efforts to undermine the CDSOA in the World Trade Organization.

Thank you for your time and consideration.

Very truly yours,

David L. Cheek
President & CEO

Kincaid Furniture Company, Inc.
Hudson, North Carolina 28638
August 25, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to the Ways and Means Committee's July 25, 2005 Press Release, Kincaid Furniture Company, Incorporated and its 523 employees strongly oppose H.R. 1121 and its inclusion in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. The Continued Dumping and Subsidy Offset Act ("CDSOA") must be preserved to maintain effective remedies against unfairly traded imports. Congress should not treat its revocation as some sort of "technical correction."

Kincaid Furniture Company, Incorporated is headquartered in Hudson, North Carolina and operates a furniture manufacturing plant in Hudson, North Carolina.

Unfairly priced imports from China contributed to the closing of over 65 U.S. wooden bedroom furniture factories during 2001–2004. These factories employed over 18,000 workers. Our industry's antidumping petition was opposed by over 30 law firms that represented the Chinese Government and over 100 Chinese companies. The Chinese Government even helped pay the legal fees of the Chinese companies. In 2004, we won our case, and the United States imposed antidumping duties to offset the dumped prices. Despite the antidumping order, however, we fear that some Chinese furniture exporters are continuing to dump their product in the United States at very low prices. They simply absorb the duties rather than adjust their prices to non-injurious levels as the law was intended

We need CDSOA to ensure that our antidumping order has its intended effect. CDSOA discourages foreign exporters from continuing to dump, because they know that their U.S. competitors are the ones that receive the duties they pay. In addition, if foreign producers choose to continue to dump, then CDSOA compensates the companies that are hurt by the continuing unfair trade practices. CDSOA distributions will enable our company to preserve U.S. manufacturing jobs.

One of the criticisms leveled at CDSOA is that it encourages the filing of frivolous petitions. This is completely untrue. CDSOA was certainly not the reason that our industry filed its antidumping petition. In fact, we understand that the number of cases filed has gone down considerably since CDSOA was enacted.

Finally, Congress should not consider repealing CDSOA at a time when negotiators in Geneva are considering a U.S. proposal to amend the WTO Antidumping Agreement to clarify that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, your Committee should urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Steven Kincaid
President

Koyo Corporation of U.S.A.
Westlake, Ohio 44145
September 1, 2005

The Hon. E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways & Means
1236 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw:

In response to your July 25, 2005 press release, I am writing on behalf of Koyo Corporation of U.S.A. and its 1,800+ employees, to express our strong support for the inclusion of H.R. 1121, a bill to repeal the Continued Dumping and Subsidy Offset Act ("CDSOA" or "Byrd Amendment"), in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills.

Koyo Corporation of U.S.A. ("KCU"), a U.S. manufacturer, importer and exporter of bearings, steering systems and other automotive parts, has its headquarters in Westlake, Ohio, research facilities in Plymouth, Michigan, and manufacturing plants in South Carolina, Tennessee, Texas, and Virginia. As explained in more detail below, KCU, like many other U.S. companies, is negatively affected by the Byrd Amendment due to the illegal disbursements made thereunder to one of its competitors, namely the Timken Company ("Timken"), and due to the retaliatory duties to which KCU's exports of ball bearings to Japan will be subject as a result of Japan's legitimate response to the United States' continued application of the Byrd Amendment.

As the committee well knows, it has been over two and one half years since the Appellate Body of the World Trade Organization ("WTO") found the Byrd Amendment inconsistent with U.S. international obligations under the WTO Antidumping and Subsidies and Countervailing Measures Agreements. *United States—Continued Dumping and Subsidy Offset Act of 2000,* WT/DS217/AB/R and WT/DS234/AB/R (January 16, 2003). Since that finding, the United States Trade Representative has on repeated occasions stated that the United States will comply with its WTO obligations, and the Administration will work closely with Congress to do so.

Despite this repeated statement, and the passing of the December 27, 2003 deadline to comply with the Appellate Body's report, the United States continues to disburse funds to petitioners pursuant to the Byrd Amendment. For the reasons given below, it is imperative for the United States to remain true to its word and to cease its illegal practice through repeal of the Byrd Amendment, as proposed in H.R. 1121. In particular, KCU notes:

- The United States' failure to repeal the Byrd Amendment in a timely manner has exposed U.S. exports to retaliation from each of the WTO Members that initiated the Byrd Amendment challenge. As of the writing of this letter, the EU and Canada have already imposed retaliatory duties on a wide range of products, and Japan, Mexico and Chile have released lists indicating the specific products on which they plan to impose additional duties. Indeed, KCU's own exports of ball bearings to Japan will be subject to retaliatory duties (effective September 1, 2005), which may lead KCU's parent company in Japan, Koyo Seiko Co., Ltd., to source that merchandise from one of its other, non-U.S., global production facilities. Overall, the imposition of these retaliatory duties will

further decrease U.S. exports and exacerbate the already worrisome U.S. trade deficit.

- Of equal importance to the Byrd Amendments' illegality under the WTO, are its ineffectiveness, cost to the Treasury, and lack of accountability. When Senator Byrd sponsored the legislation, he stated that the program would primarily benefit U.S. steel manufacturers. In reality the program has done little to benefit the steel industry, which was ultimately protected through the imposition of safeguard measures. Rather, the principal beneficiaries have been two bearing manufacturers (Timken and Torrington which was subsequently purchased by Timken), which in 2001 received 35% of the total funds disbursed under the Byrd Amendment that year. In 2004, these two companies received nearly $66 million in Byrd Amendment money. Rather than helping an ailing industry, the Byrd Amendment is giving an unfair advantage to a few already dominant players.
- At the time of enactment, Senator Byrd also indicated that the General Accounting Office ("GAO") had determined the program would cost no more than $38 million. In fact, during the first four years of the Byrd Amendment, the United States has disbursed over $1 billion to U.S. petitioners—money that could have funded other important Federal priorities. Moreover, there is no restriction whatsoever on how payments can be used by the recipients. Companies can use payments to keep otherwise inefficient facilities afloat, to fund additional lobbying efforts in Washington, or even to open new manufacturing plants overseas, while shuttering production and cutting jobs in the U.S. This complete lack of accountability as to how Byrd Amendment payments can be used is irresponsible and constitutes bad public policy. It also appears that Timken can import from overseas plants subject to antidumping cases and after making payments, obtain these payments back via the Byrd measure. That type of penalty does not level the playing field for all, it simply protects and encourages overseas investment by U.S. producers who can initiate cases and then be free of concern of resale prices on their own imports.
- The inappropriate and illegal benefits accruing to selected U.S. companies under the Byrd Amendment creates perverse financial incentives for petitioners to file antidumping and countervailing duty investigations. The U.S. Congressional Budget Office concluded in a March 2004 report that the Byrd Amendment actually encourages companies to file anti-dumping and countervailing petitions against foreign products in order to collect the payments derived from the punitive duties. This conclusion is supported by the fact that during the period of 1995–1999, the Department initiated, on average, 26 antidumping cases per a year; in the period of 2000–2002 (i.e., after the Byrd Amendment was enacted), this average doubled to 52 antidumping cases per year.
- Further, once an order is imposed, the Byrd Amendment encourages petitioners to challenge the validity of the data submitted by respondents in order to elevate respondents' dumping margins, and thus increase the funds available for disbursement. KCU has first hand experience of such activity by Timken, who, in the fourteenth administrative review of ball bearings aggressively sought to change the long-standing methodology used by the Department in determining whether models sold in the foreign comparison market are similar to those sold in the United States. If the preliminary results of that review are indicative, Timken's efforts will be rewarded as a result of the increased margins, and thus increased disbursements, generated by the Department's retroactive model match methodology.

In short, the Byrd Amendment unfairly distorts competition, harms many U.S. manufacturers, has not achieved its original goals, drains the U.S. Treasury, violates U.S. trade agreements, alienates our trading partners, and threatens U.S. exporters via retaliation. Now is the time for Congress to act and repeal the Byrd Amendment.

We appreciate the opportunity to provide comments to the Committee on this important topic.

Respectfully submitted,

Thomas Peacock

[By permission of the Chairman:]

Statement of Philippe De Buck, L'Union des Industries de la Communauté Européenne, Brussels, Belgium

UNICE welcomes the opportunity to comment on and supports the inclusion into a miscellaneous trade legislation of the bill H.R. 1121 repealing Section 754 of the Tariff Act of 1930.

UNICE is the voice of more than 20 million small, medium and large companies. Its members are 39 central industrial and employers federations from 33 countries, working together to achieve growth and competitiveness in Europe.

The E.U.–U.S. relationship is of fundamental importance for European business. Our economies are so interdependent that policies on one side of the Atlantic often have repercussions throughout the transatlantic marketplace. We are therefore concerned that trade disputes are straining the transatlantic relationship particularly at a time when cooperation is more necessary than ever for the security and prosperity of all. In that context, UNICE strongly urges the two partners to comply with their WTO commitments and, in particular, to implement WTO rulings fully.

The failure by the U.S. to repeal the "Byrd Amendment" to date, which the WTO found to be in violation of WTO Agreements, is of great concern to European business. UNICE calls upon Congress to repeal this legislation for the following main reasons:

- The current system distorts trade by providing an effective subsidy to U.S. producers, who successfully launched a trade defence case, in addition to giving them the benefit of the anti-dumping and countervailing duties applied to dumped or subsidized imports. This goes far beyond the purpose of trade defence legislation which is to remedy unfair trade practices causing injury, and is totally contrary to the spirit and the letter of the WTO agreements.
- Continued non-compliance with WTO rules by the U.S. puts seriously at risk the credibility not only of the WTO dispute settlement mechanism but also of the WTO system itself. What are the incentives for other members to play by the rules if the U.S. does not set the example? This is all the more worrying with the lack of progress in the Doha Development Agenda negotiations underway. Resolution of the "Byrd Amendment" dispute would send a positive signal to the negotiations on rules where progress will be necessary to conclude successfully the round.
- Legitimate retaliatory actions in that context affect patterns of trade that involve a broad range of sectors, including those outside the realm of the disputed Byrd Amendment. Many companies, including U.S. companies, have been caught in the cross fire. The situation needs to be resolved.
- Continuing to ignore the Dispute Settlement Body's ruling and recommendations would inevitably escalate the existing tensions by fuelling further resentment and possible additional retaliatory measures at the expense of E.U.–U.S. transatlantic overall interests and relationship with other WTO Members.

For all these reasons, UNICE urges the U.S. Congress to repeal the "Byrd Amendment" rapidly and supports fully the European Union action to that end. It hopes that the consultation of all the stakeholders concerned underway will lead to that result at the earliest possible time.

UNICE would be pleased to provide additional comments if necessary.

Philippe de Buck

UNICE is the voice of more than 20 million small, medium and large companies. Its members are 39 central industrial and employers federations from 33 countries, working together to achieve growth and competitiveness in Europe.

List of UNICE Members

Fédération des Entreprises de Belgique—Verbond van Belgische Ondernemingen (VBO–FEB)
Fédération des Entreprises Suisse—ECONOMIESUISSE
Confederation of Swiss Employers
Employers & Industrialists Federation Cyprus—OEB
Bundesverband der Deutschen Industrie e.V.—BDI
Bundesvereinigung der Deutschen Arbeitgeberverbände e.V.—BDA
Confederation of Danish Industries—DI
Confederation of Danish Employers—DA

Confédération des Employeurs Espagnols—CEOE
Mouvement des Entreprises de France—MEDEF
Confederation of British Industry—CBI
Fédération des Industries Grecques—SEV
Confederazione Generale dell' Industria Italiana—CONFINDUSTRIA
Irish Business and Employers Confederation—IBEC
Federation of Icelandic Industries—FII (Samtök idnadarins)
Confederation of Icelandic Employers
Fédération des Industriels Luxembourgeois—FEDIL
Malta Federation of Industry—MFOI (Malta)
Confederation of Norwegian Enterprise—NHO
Vereniging VNO–NCW (The Hague)
Associaçáo Industrial Portuguesa—AIP
Confederaçáo da Indústria Portuguesa—CIP
Confederation of Swedish Enterprise/Svenskt Näringsliv
Confederation of Finnish Industries—EK
Turkish Industrialists' and Businessmen's Association—TÜSIAD (Istanbul)
Turkish Confederation of Employer Associations—TISK
Latvian Employers' Confederation—LDDK
Republikova Unia Zamestnavatelov—RUZ
Confederation of Industry of the Czech Republic—SPCR
Associazione Nazionale dell'Industria Sammarinese-ANIS
Confederation of Hungarian Employers and Industrialists—MGYOSZ
Employers' Association of Slovenia—ZDS
Croatian Employers' Association—HUP
Bulgarian Industrial Association—BIA
The Lithuanian Confederation of Industrialists—LPK
Estonian Employers' Confederation—ETTK
Industriellenvereinigung—IV
Polish Confederation of Private Employers Lewiatan—PKPP Lewiatan
The Alliance of Romanian Employers' Confederation—ACPR

Lafarge North America
Herndon, Virginia 20170
September 2, 2005

The Honorable E. Clay Shaw, Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

On behalf of Lafarge North America and its employees, I urge you and your committee to oppose the inclusion of H.R. 1121 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 1121 is a highly controversial bill that would repeal the Continued Dumping and Subsidy Offset Act ("CDSOA"). It has been incorrectly labeled as a "technical correction" to existing law. In actuality, this Bill would eliminate current deterrents set in place for illegal dumping in the United States.

Lafarge North America employs eight-thousand workers operating in more than thirty-five of the United States. We are a leading supplier of aggregates, concrete, gypsum and cement. Next year our company will celebrate fifty-years of operations in North America.

In the early 1980's, our industry was damaged by the dumping of Mexican cement. The industry drastically reduced cement production in certain regions and limited new capital investment because of the dumping. In 1990, the United States imposed anti-dumping duties on Mexican cement. Even with current penalties in place, illegal dumping continues and H.R. 1121 is important to repair instances where dumping occurs.

We believe that inclusion of H.R. 1121 (CDSOA) in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bill would reverse an important deterrent to dumping in the United States. It is important to note that the CDSOA provision does not impact goods that are fairly traded within the United States. The continued unfair trade practices are directly related to a Mexican cement market, which is currently closed to foreign competition. The CDSOA provi-

sion is a critical protection for not only our industry, but for all U.S. industries that experience unfair trade practices.

Thank you for considering these comments.

Sincerely,

Sherry E. Peske
Vice President, Communications and Public Affairs

Lehigh Cement Company
Allentown, Pennsylvania 18195
August 19, 2005

The Honorable E. Clay Shaw, Jr.
1236 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

In response to the Committee's July 25, 2005 Press Release, I am writing on behalf of Lehigh Cement Company to express our strong opposition to the inclusion of H.R. 1121 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 1121 is a highly controversial bill that would repeal the Continued Dumping and Subsidy Offset Act ("CDSOA"). It can by no means be fairly described as a "technical correction" to existing law.

Lehigh, along with its associated companies, is a major North American manufacturer of cement, concrete and aggregates, employing about 6000 people in the United States and Canada. Its North American headquarters is based in Allentown, PA. We operate in 31 states and five provinces. Our production facilities in the United States include nine gray and two white cement plants, as well as numerous ready mixed concrete plants, sand and gravel quarries and facilities which produce concrete block and pre-stress concrete. Lehigh Cement's North American sales totaled U.S.$2.1 billion in 2004.

In the late 1980's, our industry was severely damaged by dumped imports of cement from Mexico. The unfairly low prices of Mexican cement caused U.S. cement plants to close and took away any incentive to invest in new cement capacity. In 1990, the United States imposed antidumping duties on Mexican cement. Unfortunately, however, the dumping has not stopped. In fact, in the 13 administrative reviews conducted since the order was imposed, the Department of Commerce found that the dumping margin of CEMEX, S.A., the dominant Mexican producer, has averaged 63 percent. That means that even with the antidumping order in place, CEMEX's cement prices to customers in Mexico have been 63 percent higher than its cement prices to customers in the United States. The root cause of this unfair pricing behavior—a Mexican cement market that is closed to foreign competition—also has not changed since the antidumping order was imposed.

CDSOA both discourages continued dumping and also compensates the victims of such continuing unfair trade. The law merely provides that antidumping duties are distributed to the supporters of the original antidumping petition. If and when the dumping stops, so do the CDSOA distributions. Thus, CDSOA has no impact on fairly traded imports.

CDSOA distributions to date under the cement antidumping order have been very limited because the Mexican Government has refused to appoint NAFTA panelists to hear pending appeals of administrative reviews going back a number of years. It would be extremely unfair to U.S. cement producers to repeal CDSOA before these very old entries are liquidated and available for distribution. When distributed, these duties will help U.S. cement producers to invest in new production capacity and to create new jobs.

Contrary to what some consumers of unfairly priced imports have claimed, CDSOA has not led to the filing of frivolous antidumping petitions. In fact, the filing of new petitions has fallen sharply since CDSOA was enacted in 2000.

Finally, it makes no sense to repeal CDSOA while negotiators in Geneva are considering a U.S. proposal to amend the WTO Antidumping Agreement to clarify that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, your Committee should urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering these comments.

Very truly yours,

Jeffry H. Brozyna
Senior Vice President-Corporate Services/General Counsel

Libbey, Inc.
Toledo, Ohio 43604
August 31, 2005

The Honorable E. Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

On July 25, 2005, the Subcommittee issued Advisory No. TR–3. The Advisory requested written comments for the record from interested parties regarding proposed bills concerning "technical corrections to U.S. trade laws and miscellaneous duty suspension proposals." The Advisory included a list of the particular miscellaneous trade bills about which comments were requested. This letter is Libbey Inc.'s (Libbey) response to the Subcommittee's request.

Libbey is a leading supplier of tableware products in the U.S. and Canada. Based in Toledo, Ohio, Libbey operates glass tableware manufacturing plants in the United States in Louisiana and Ohio, in Portugal and in the Netherlands. In addition, through its Syracuse China, World Tableware, and Traex subsidiaries, it is a leading provider of ceramic dinnerware, metal flatware, and plastic products to the foodservice industry in the United States. Libbey exports glassware to more than 90 countries around the world and also provides technical assistance to a number of foreign glass tableware manufacturers.

H.R. 1121 and H.R. 2473 Should Not Be Included in a Miscellaneous Trade Bill Package

In particular, Libbey is concerned about, and opposes, two bills.

H.R. 1121—"A bill to repeal section 754 of the Tariff Act of 1930"

H.R. 2473—"A bill to amend the Tariff Act of 1930 relating to determining the all-others rate in antidumping cases"

Strong Trade Remedy Laws Are Important To Maintaining Fair Trade

As a major U.S. manufacturer of glass tableware and ceramic dinnerware, both import-sensitive products, Libbey is a strong and long-standing supporter of strong trade law remedies. Effective and useable trade remedy laws are necessary, indeed, crucial to maintaining a level playing field for U.S. manufacturers and their workers. Libbey thus believes that any attempt to weaken trade remedy laws should be rejected because it will make it harder for U.S. companies and workers to compete fairly with subsidized and dumped imports.

Moreover, without effective trade remedy laws in place, trade liberalization policies will lose public support.

Because H.R. 1121 and H.R. 2473 Would Weaken Crucial Trade Remedy Laws, They Will Attract Controversy and Strong Opposition

A miscellaneous trade bill is not intended to be a vehicle for controversial legislation. Bills that weaken trade remedy laws will cause controversy. Because both H.R. 1121 and H.R. 2473 will weaken trade remedy laws, they will cause controversy. Hence, they should not be included in a miscellaneous trade bill package.

H.R. 1121:

- This bill proposes to repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA").
- CDSOA has strong bi-partisan support from Members of Congress and the public. Any attempt to repeal CDSOA would attract intense controversy and strong opposition.
- Under CDSOA, duties that are collected as a result of continued dumping or subsidization are distributed by the U.S. government to certain eligible domestic parties in industries found to have been injured by dumped or subsidized imports.

- CDSOA has no effect on how dumping and subsidy rates are calculated or on how much in duties importers must pay. All it does is simply distribute money pursuant to generally applicable criteria when unfair trade practices do not cease.
- CDSOA distributes money only to the extent dumping and subsidization continues after an order. If dumping and subsidization cease, no funds are collected or distributed.

H.R. 2473:

- This bill proposes to weaken the antidumping law by deleting the word "entirely" from subparagraphs (A) and (B) of section 735(c)(5) of the Tariff Act of 1930. These provisions concern the calculation of the "all others rate."
- This proposal is not simply a technical change. In fact, it would effect a substantial and harmful change to the antidumping law by making in virtually impossible in a large number of cases for the Department of Commerce to calculate an "all-others" dumping rate for non-investigated exporters.
- The "all-others" rate is the rate that applies to all exporters that were not investigated. It is calculated as the weighted average of the dumping margins calculated for those individual exporters that were investigated.
- Currently, Commerce does not include in the weighted average any margins based *entirely* on "facts available" data. Commerce does include in the weighted average margins based *partially* on "facts available." Margins based on partial facts available are not uncommon.
- "Facts available" data (data substituted for actual company-specific data) is applied by Commerce when an exporter fails to submit data required to calculate a dumping margin.
- H.R. 2473 proposes to prohibit Commerce from calculating the "all others" rate from any margins based on facts available, partial or entire. This would mean that, in many cases, there would be no useable margins from which to calculate an "all others" rate.
- ??? substance, H.R. 2473 would weaken the antidumping law. Administratively, H.R. 2473 would cause severe problems for Commerce in carrying out its statutory responsibilities to administer the antidumping law.
- In sum, because H.R. 2473 would attract controversy and engender strong opposition from domestic party users of the antidumping law, it should not be included in a purportedly non-controversial miscellaneous trade bill package.

Miscellaneous Trade Bills Are Not Appropriate Vehicles to Implement WTO Panel or Appellate Body Decisions

A further reason not to include H.R. 1121 and H.R. 2473 in a miscellaneous trade bill package is that they are apparent attempts to implement legislatively controversial decisions by WTO dispute panels and Appellate Body. "Non-controversial" miscellaneous trade bills are not an appropriate vehicle to effect such legislative changes to trade remedy laws.

Moreover, on both the CDSOA and the "all-others" rate issues, Congress and the Administration have criticized the WTO panels and Appellate Body for overreaching their authority. They have said that these (and other) WTO decisions have tried to impose on the U.S. obligations that were not negotiated and which are apparent from the text of the WTO Agreements. In addition, Congress has repeatedly told the Administration to seek a resolution of these controversial decisions through negotiations at the WTO, which the Administration is currently doing in the context of the Doha Round. Both H.R. 1121 and H.R. 2473, if legislated, would interfere in these efforts.

Conclusion

For all of the foregoing reasons, both H.R. 1121 and H.R. 2473 would "attract controversy," weaken the trade remedy laws, and give rise to strong opposition. Neither H.R. 1121 nor H.R. 2473 should be included in a miscellaneous trade bill package.

Respectfully submitted,

Susan Allene Kovach
Vice President, General Counsel and Secretary

Statement of Bob Mochinski, Littfin Lumber Company, Winsted, Minnesota

The "Continued Dumping and Subsidy Offset Act of 2000," often called the"Byrd Amendment," allows for the distribution of CVD/AD deposits to affected U.S. pro-

ducers who originally petition for trade remedies that result in the imposition of such duties. I am writing in support of H.R. 1121, and a repeal of this "Byrd Amendment."

My company produces structural building components-metal-plate connected wood trusses and open-web floor joists-which are made primarily of softwood lumber and light gauge, galvanized steel connector plates. Our products are used mainly in residential homes across the country, as well as multi-family dwellings and light-commercial and agricultural buildings.

According to the International Trade Commission (ITC), 36% of the softwood lumber used in the U.S. comes from Canada. Based on our industry financial performance statistics, combined with a study done by the ITC, the structural building component industry's annual steel purchases are approximately 475,000 tons of steel in truss plates and an additional 130,000 tons in connectors.

Hence, my company's competitiveness and profitability are directly harmed by the protectionist trade remedies encouraged and exacerbated through the Byrd Amendment. Please allow me to offer the following observations:

Byrd Creates Perverse Incentive:

The Byrd Amendment is bad policy because it essentially creates a double benefit for targeted companies: first, through an increase in prices due to a tariff-induced reduced supply; and second, through the distribution of tariff dollars to the petitioning companies that already gain the benefit from the increase in prices. As a consequence, the Byrd Amendment has simply encouraged additional U.S. companies to file more protectionist trade suits to reap the benefits of a direct payment from their marketplace competitors.

Byrd Encourages Protectionist Trade:

According to the World Trade Organization, as recently as 1997 only 15 anti-dumping cases were filed in the U.S., and only nine in the entire first half of 2000. But since the Byrd Amendment took effect, the numbers have climbed to 76 in 2001, 35 in 2002, and 37 in 2003.

Forty-four U.S. companies have each collected at least $1 million through the Byrd Amendment in 2004, and total assessed duties were over $284.1 million. From 2001 through 2004, U.S. Companies have benefited from more than $1.04 billion through this protectionist trade law.

Byrd Makes My Problems Worse:

First, as stated earlier, the Byrd Amendment encourages the filing of CVD/AD trade remedy cases. These trade tariffs artificially raise the cost of my raw materials, like softwood lumber and steel, which also leads to unnecessary uncertainty or restriction of supply.

Second, the Byrd Amendment makes it possible for nearly $4 billion in CVD/AD duties collected on the importation of Canadian softwood lumber to be distributed to U.S. petitioning companies. However, U.S. petitioning companies account for only 54 percent of U.S. softwood lumber production. This provides an unfair competitive advantage to these petitioning companies.

Third, the possibility of distribution created by the Byrd Amendment of this nearly $4 billion in CVD/AD duties makes a negotiated settlement of the softwood lumber dispute between the U.S. and Canada nearly impossible.

Byrd Unfair, Passed Unfairly:

The Byrd Amendment

Los Angeles Cold Storage Company
Los Angeles, California 90013
August 30, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman,

I am writing to express my support for H.R. 1121, the legislation to repeal the "Continued Dumping and Subsidy Offset Act" (CDSOA), commonly known as the

Byrd Amendment. This law has brought nothing but pain to all but a select few companies that benefit disproportionably by any measure of fairness.

My company, Los Angeles Cold Storage is involved in the storage and distribution of food products. We are heavily involved with both domestic and imported seafood products. My experience with the Byrd Amendment is that it has been used by industries that have chosen not to help themselves, despite years of warning from industry and government that they must make changes to survive. In the case of the domestic shrimp industry, they did not take positive action steps to protect their business and then chose to rely on the Byrd Amendment money to bail them out. The effect of their actions have not only hurt the American consumer, but many domestic importers and allied businesses like mine.

My understanding is that the negative effects of this amendment have been felt across a wide swath of American industry as more countries respond to the WTO's decision that the Byrd Amendment is illegal and could legally impose tariffs on American products exported to their countries. In other words, our system has decided that a few American industries should benefit at the expense of other American industries that are innocent participants in this global game of political protectionism. And this is being done using a method that was ruled illegal by the very organization that we set up to ensure fair trade between participating countries. Any logic to this scenario escapes me.

A good example of the effects of this misguided policy was identified recently in the Los Angeles Times (August 29,2005) where they reported that Mexico has been authorized to "collect $20.9 million dollars from U.S. exporters of wine, dried milk powder and chewing gum; industries that have not benefited from the amendment."

It seems to me that Congress has a responsibility to protect American industries and play by the rules of fairness that we help establish. The Byrd amendment fails on both counts. If there are some industries that have been hurt by dumping, then there are other, more appropriate, mechanisms to address their concerns and even the playing field for them.

Let's repeal the Byrd Amendment and allow many American industries their rightful chance to compete in the world market instead of punishing them for the illegal and misguided protection of a few select companies.

Thank you for opportunity to comment on this important issue.

Larry Rauch
President

Lumi-Lite Candle Co., Inc.
Norwich, Ohio 43767
September 1, 2005

The Honorable E. Clay Shaw, Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw:

Lumi-Lite Candle Co., Inc. has been a candle manufacturer in Norwich, OH since 1958. Lumi-Lite, its employees and customers have been and continue to be adversely affected by the predatory trade practices of the Peoples Republic of China. Lumi-Lite Candle Company hereby submits its written comments in opposition to including H.R. 1121 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bill. H.R. 1121 proposes to repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"). CDSOA has strong bi-partisan support from Members of Congress and from the public. Any attempt to repeal CDSOA would attract controversy and strong opposition. Congress has consistently refused to include any controversial measure in previous bills, such as the subject Technical Corrections and Miscellaneous Duty Suspension Bill.

Under CDSOA, duties that are collected as a result of continued dumping or subsidization are distributed by the U.S. Government to eligible domestic industries found to have been injured by dumped or subsidized imports. CDSOA has no effect on how dumping and subsidy rates are calculated or on how much duties importers must pay. All it does is simply distribute collected monies when unfair trade practices by our foreign competitors do not cease. CDSOA distributes money only when

dumping and subsidization continues after an Order. If dumping and subsidization cease, no funds are collected or distributed.

This bill responds to a specific WTO panel and appellate body decision that engaged in overreaching their authority. Congress and the Administration have criticized this WTO approach. These and other WTO decisions have tried to impose on the U.S. obligations that were not negotiated and which are apparent from the text of the WTO agreements. In addition, Congress has repeatedly told the Administration to seek a resolution of these controversial decisions through negotiations at the WTO, which the Administration is currently doing in the context of the Doha Round. H.R. 1121, if legislated, would interfere with these efforts.

In conclusion, "non-controversial" miscellaneous trade bills are not an appropriate vehicle to make such legislative changes to trade remedy laws.

George Pappas Sr.
President

Marine Management Insurance Brokers, Inc.
Park City, Utah 84098
August 29, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

On behalf of Marine Management Insurance Brokers, Inc, I would like to thank you for the opportunity to comment of H.R. 1121, legislation to repeal the "Continued Dumping and Subsidy Offset Act" (CDSOA), commonly known as the Byrd Amendment. Our organization strongly supports this legislation's inclusion in the miscellaneous trade bill.

Our organization acts as a "Managing General Agent" vested with underwriting authority provided by two leading insurers to insure seafood suppliers, importers, distributors, and wholesalers who participate in and are dedicated to international trade in seafood. Our organization provides unique trade insurance products, risk management tools, and intelligence to seafood sellers and buyers throughout the global market place. As such, we have a unique perspective of the dysfunctional aspects of the Byrd Amendment.

The Byrd Amendment does not rebuild impaired, under capitalized, and/or poorly managed American companies, but rather, acts as a conduit to draw scare resources from healthy companies, who are then weakened by this diversion of capital. The Byrd Amendment does not restrict the recipients' use of Byrd Amendment funds, and "qualified expenditures" which govern the allocation of Byrd Amendment money are not monitored or audited by customs or any government agency. In fact, archaic methodologies used to determine duties, which are embedded into the antidumping and countervailing duty laws are so arbitrary and ambiguous that duties are higher and more difficult to change as a result of the Byrd Amendment.

The anticipation of Byrd payments flowing perpetually from global trade represents a powerful incentive by the American Bar to fan the flames of discontent, inherent to the natural economic selection process of permitting the healthiest companies to survive and prosper.

Innovation, hard work, and the proper allocation of scare resources rewards companies with growth and prosperity. Competitors are certainly put on notice and are encouraged to innovate and create in order to take business from the market leaders. Obviously, this process gives rise to greater competition, which benefits all consumers in the world community and disperses rewards along the pathways of free trade.

Conversely, the Byrd Amendment simply serves as a disincentive to innovate and rewards weak industries for failing to invest to reach the next competitive level. Furthermore, the diversion of funds from strong companies only serves to weaken the global seafood sector, by diverting funds from the efficient delivery of healthy protein into all world markets.

The uncertainty of duty calculations, to be levied in the future for current trading periods, creates an unfair trading environment and undefinable liabilities for all participants in the supply chain. This represents a handicap of global proportions

and will adversely impact the quantity, quality, and reliability of seafood supply into all world markets.

The Byrd Amendment was passed without adequate scrutiny by Congress. Moreover, its legacy of unforeseen injury to American companies and its' failure to encourage American companies to rebuild their "impaired" sectors from Byrd allocations speaks volumes.

We respectfully request that you include H.R. 1121 in the miscellaneous trade bill. We thank you once again for this opportunity to present our view on this issue of paramount importance.

Respectfully Submitted,

Curtis W. Keyes
President

Maui Land & Pineapple Company, Ltd.
Kahului, Hawaii 96733
August 30, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

We are writing on behalf of the nearly 1,500 employees of Maui Land & Pineapple Company Inc. ("Maui"). Maui strongly opposes the inclusion of H.R. 1121 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 1121 would repeal the Continued Dumping and Subsidy Act ("CDSOA"), a law designed and passed to assist U.S. manufacturers, such as Maui, who have been harmed by unfair foreign trading practices. By no stretch of the imagination can this bill be described as a "technical correction" to current law.

Our company has fought expensive battles over unfairly traded Thai imports of canned pineapple fruit over the last decade. Prior to passage of the CDSOA, we received only prospective relief, in the form of assessed antidumping duties, from these unfair trade practices. In the last three years under the CDSOA, however, Maui has received $ 7.7 million in duties collected under the antidumping law. These CDSOA funds have allowed Maui to make the investments necessary to maintain our competitiveness, and to maintain vital manufacturing jobs, in the face of continued unfair trade practices by our foreign competitors. Specifically, Maui has expanded its facilities for fresh pineapple, a value-added co-product to canned pineapple, and is spending $ 18 million to build a modem canning and fresh packing plant by mid-2006. This substantial investment for our future would not have been possible without the CDSOA funds. Maui has also taken on several initiatives, such as elimination of the use of methyl bromide for soil nematode control, and use of new fertilizer and irrigation techniques designed to increase production yields. The implementation of these types of agronomic advancements were possible due in part to the funds received under the CDSOA, which have aided Maui in offsetting the significant costs of waging battle against these unfairly traded imports.

The CDSOA is working exactly as Congress envisioned. It provides sorely needed funds for investment to companies like Maui, the last remaining U.S producer of canned pineapple fruit. I urge you, therefore, to oppose any effort to repeal the CDSOA.

Sincerely,

Brian C. Nishida
President and Chief Executive Officer

Statement of Senator Tom Bakk, Senator Tom Saxhaug, Senator David Tomassoni, Representative Irv Anderson, Representative David Dill, Representative Tom Rukavina, Representative Tony Sertich, and Representative Loren Solberg, Members of the Minnesota Legislature representing Minnesota's "Iron Range", St. Paul, Minnesota

We appreciate the opportunity to submit this statement in anticipation of the Subcommittee's review of H.R. 1121, a bill to repeal the "Continued Dumping and Subsidy Offset Act (CDSOA)." We oppose inclusion of H.R. 1121 in *any* Miscellaneous Tariff Bill, in any other legislation, or in stand-alone status. The CDSOA should *not* be repealed.

Since 2001, import duties collected by the U.S. government on dumped and subsidized goods have, under CDSOA been distributed to businesses harmed by these unfair trade practices. The distributions of the funds have allowed small and large businesses across the country to reinvest in critical resources needed to survive, keep their workers employed, and regain their competitive footing.

While this statute applies throughout the country, it is particularly important to states like Minnesota which are dependent on the manufacturing and agriculture jobs that have been most vulnerable to foreign unfair trade practices. In Fiscal Year 2004, over $1.2 million was distributed under the CDSOA back into the Minnesota economy, which allowed businesses to maintain jobs and make critical new investments that would not otherwise have been made because of the unfair trade practices of foreign competitors.

Foreign producers—and those U.S. businesses who want to buy illegally dumped and subsidized goods regardless of the severely harmful effects on other U.S. businesses and workers—claim that the distributions somehow affect them unfairly. This clearly is not the case as compensation from the proceeds of the duties collected are only distributed if the foreign producers *continue* to use the United States as the dumping ground for their unfairly traded goods after trade law orders against them have been imposed. That is, only repeat offenders of the U.S. trade laws are affected by the CDSOA.

The CDSOA is a well-crafted statute that guards against U.S. businesses simply reaping a windfall from duties collected. Distributions are made only to those U.S. producers who invest in their company for specified qualifying expenditures such as acquisition of technology and environmental equipment, and then only up to the amount of those investments.

These distributions help offset the harm caused by the unfair trade and encourage domestic industries to make the investments necessary to recover from such injury. For example, distributions to iron and steel companies are now helping to pay for much needed reinvestments and upgrades at production plants in Minnesota's Iron Range. Current or planned expansions would increase northern Minnesota's annual iron ore pellet production to more than 44.5 metric tons, up from 32.1 metric tons just a few years ago. These operations are important not only to Minnesota—they employ 4,000 workers and contribute nearly $1.3 billion each year to the state's economy in the form of purchases, wages and benefits, royalties and taxes—but also to our nation as a whole as Minnesota's iron mining and processing operations produce two-thirds of the iron ore used to make steel in the United States.

Nevertheless, those who benefit from unfair trade are seeking the repeal of the CDSOA precisely because it is working. For the businesses, workers, and communities hurt by the unfairly traded goods, however, the CDSOA provides vital financial assistance for investment and survival. Our trade laws and the CDSOA provide domestic companies and workers with a fair chance of competing on a level playing field. American industries hurt by the unfair pricing of foreign traders deserve a chance to fight back. The CDSOA is a sound and reasonable policy, and it is working.

This critically important law should not be repealed in the technical corrections and duty suspension bill package or in any other legislation approved by Congress.

Mexinox Usa, Inc.
Bannockburn, Illinois 60015
September 1, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing on behalf Mexinox USA of Bannockburn, Illinois in favor of the passage of H.R. 1121, a bill that would repeal the Continued Dumping and Subsidy Offset Act, commonly known as the "Byrd Amendment."

Mexinox USA is the U.S. importer and distribution affiliate of ThyssenKrupp Mexinox. Mexinox is the sole producer of stainless steel sheet in Mexico and is an important participant in the U.S. market for stainless steel sheet products. The U.S. does not produce enough stainless steel sheet to satisfy domestic demand, and Mexinox helps make up this shortfall, preserving the competitiveness of American manufacturers that use stainless steel. We are proud of our participation in the American economy; Mexinox is a responsible participant in this market and is the largest import source of these products.

The Byrd Amendment is a waste of government money and also distorts trade flows by encouraging petitioners to keep dumping orders in place longer than they otherwise would, and to include products in cases they would not otherwise be interested in. The desire to obtain Byrd Amendment money drives these and other decisions in how cases are brought, how broad they are and how long they last.

The government of Mexico, along with ten other countries, filed a case before the World Trade Organization (WTO) seeking to declare the Byrd Amendment a violation of WTO agreements. This action was successful. The WTO stated that the United States was to repeal the Byrd Amendment by December 27, 2003. However, unfortunately this has not been done.

The time has come to rectify this. The Government of Mexico, along with those of Japan, the European Union and Canada have already retaliated against U.S. exports to address the failure of the United States to repeal this law. It is not only a violation of international agreements; it also is bad for the United States economy.

We would appreciate your placing these comments on the record of the Subcommittee.

Sincerely,

Adolfo Acevedo
Finance and Administration Manager

Michelin North America
Greenville, South Carolina 29615
September 1, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing on behalf of Michelin North America in response to the Subcommittee's request for comments on pending miscellaneous tariff and trade legislation (Trade Subcommittee Press Release, July 25, 2005). The world's largest tire maker, Michelin manufactures and sells tires for every type of vehicle, including airplanes, automobiles, bicycles, earthmovers, farm equipment, heavy-duty trucks, motorcycles and the space shuttle. The company also publishes travel guides, maps and atlases covering North America, Europe, Asia and Africa. Headquartered in Greenville, South Carolina, Michelin North America employs over 23,000 people and operates 20 plants in 16 locations.

Michelin North America supports including the Byrd Amendment repeal bill in the Chairman's Mark of the Miscellaneous Tariff Bill.

The Byrd Amendment is a subsidy to a very few companies that undermines American manufacturing. Most American manufacturers do not benefit from the Byrd Amendment. More than half the Byrd Amendment payments in 2004 went to only nine companies and more than 80 percent went to only 44 companies. The main recipients have been in the bearing, steel and other metal, household item and food sectors.

As you know, the World Trade Organization (WTO) has ruled the Byrd Amendment to be an illegal response to dumping and subsidization and gave the U.S. a deadline of late December 2003 to bring the Byrd Amendment into compliance with WTO rules. Based on the tariffs collected in 2004 alone, the U.S. government handed out more than $284 million to U.S. companies.

Like many companies, Michelin North America relies on imports of raw materials or components to maintain global competitiveness. The Byrd Amendment provides a double hit on importers of products subject to antidumping and countervailing duties. Importers must pay these duties which, because of the "retrospective" system of duty collection, are uncertain in amount; the risk of high duties discourages imports whether or not they are fairly traded and thereby harms consumers. In addition, foreign producers must see these duties transferred to their U.S. competitors. Thus, U.S. consuming industries are hurt twice: first by the uncertain amount of duties discouraging imports, and second the subsidy to competitors, further discouraging imports. The net result is that imports of vital raw materials slow, and economic activity and jobs march overseas, putting more Americans out of work.

Two specialized wire rod products, tire-cord quality wire rod and tire-bead quality wire rod, are essential in the manufacture of steel-belted radial tires. U.S. production of tire-cord quality wire rod has been quite limited in recent years. Tire-bead quality wire rod has been supplied almost exclusively from domestic sources until recently and imports, therefore, have not been an issue. The tire industry and its suppliers asked for exclusions for these specialized products in prior trade cases, and the domestic wire rod producers agreed to their request. Unfortunately, that practice was not followed in the most recent wire rod antidumping and countervailing duty cases where an exclusion for only grade 1080 tire-cord and tire-bead quality wire rod was granted.

Michelin estimates that the tariffs levied on 1070 carbon steel, as a result of the Byrd Amendment, cost Michelin North America $500,000 in 2004. There were virtually no imports of 1070 carbon steel from countries (Brazil, Moldavia and Trinidad) with extreme tariff rates of more than 90 percent. One of Michelin's key bead suppliers was importing steel carrying a 10 percent duty from Canada. Based on the fact that 80 percent of the rod used by Michelin was purchased from this supplier with a 10 percent duty, it is fair to calculate that the additional cost to Michelin was $500,000.

Most of the 1070 carbon rod that Michelin or our suppliers imported came from the "excluded" countries, which carried no duty. The remainder of the 1070 carbon steel was provided through domestic sources. In some cases, Michelin's suppliers purchased higher quality 1080 carbon rod because it was actually cheaper than the domestically produced 1070 steel rod.

The Byrd Amendment is not constructive public policy because it does not require any activity to receive government payments and the evidence suggests that little if any worthwhile activity has been done with these sums of money. Repeal of the Byrd Amendment is good public policy for the vast majority of U.S. manufacturers.

Congress must consider repeal as quickly as possible, because the specter of retaliation is real and the threat is growing. The prospect of softwood lumber duties being distributed would put the U.S. in a position of absorbing nearly $5 billion in retaliation that will harm consuming industries throughout the U.S. Congress can avoid this looming catastrophe by acting promptly to repeal the Byrd Amendment.

I urge the Committee to incorporate the legislation introduced by Mr. Ramstad and Mr. Shaw into the Miscellaneous Trade Bill and to attach it to any viable legislation to assure its being enacted without delay.

I appreciate the opportunity to supply these comments for the Subcommittee.

Sincerely,

Martin J. Wardle
Director, Services Purchasing Worldwide
Vice President, Purchasing North America

Michels and Company
Lynwood, California 90262
August 29, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to the Ways and Means Committee's July 25, 2005 Press Release, Michels and Company and its 200 employees strongly oppose H.R. 1121 and its inclusion in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. The Continued Dumping and Subsidy Offset Act ("CDSOA") must be preserved to maintain effective remedies against unfairly traded imports. Congress should not treat its revocation as some sort of "technical correction."

Michels and Company is headquartered in Lynwood, California and operates a furniture manufacturing plant in Lynwood, California. We formerly operated a manufacturing plant in Nichols, South Carolina, employing 150 people, which we were forced to close in November 2004.

Unfairly priced imports from China contributed to the closing of over 65 U.S. wooden bedroom furniture factories during 2001–2004. These factories employed over 18,000 workers. Our industry's antidumping petition was opposed by over 30 law firms that represented the Chinese Government and over 100 Chinese companies. The Chinese Government even helped pay the legal fees of the Chinese companies. In 2004, we won our case, and the United States imposed antidumping duties to offset the dumped prices. Despite the antidumping order, however, we fear that some Chinese furniture exporters are continuing to dump their product in the United States at very low prices. They simply absorb the duties rather than adjust their prices to non-injurious levels as the law was intended

We need CDSOA to ensure that our antidumping order has its intended effect. CDSOA discourages foreign exporters from continuing to dump, because they know that their U.S. competitors are the ones that receive the duties they pay. In addition, if foreign producers choose to continue to dump, then CDSOA compensates the companies that are hurt by the continuing unfair trade practices. CDSOA distributions will enable our company to preserve U.S. manufacturing jobs.

One of the criticisms leveled at CDSOA is that it encourages the filing of frivolous petitions. This is completely untrue. CDSOA was certainly not the reason that our industry filed its antidumping petition. In fact, we understand that the number of cases filed has gone down considerably since CDSOA was enacted.

Finally, Congress should not consider repealing CDSOA at a time when negotiators in Geneva are considering a U.S. proposal to amend the WTO Antidumping Agreement to clarify that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, your Committee should urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering our comments.

Sincerely,

Irwin Allen
President and Chief Executive Officer

Micron Technology, Inc.
Boise, Idaho 83707
September 2, 2005

The Hon. E. Clay Shaw
Chairman, Trade Subcommittee
Committee on Ways and Means
1102 Longworth House Office Bldg.
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to register Micron Technology's strong opposition to inclusion of H.R. 1121 in any package of miscellaneous tariff bills. This bill, which would repeal the

Continued Dumping and Subsidy Offset Act (CDSOA), is highly controversial and has no place among the temporary duty suspension bills and other minor technical corrections that are traditionally non-controversial and are typically passed by the House under suspension of the rules.

Micron believes the CDSOA provision is important to the effective functioning of the antidumping and countervailing duty laws. It has been our experience that companies subject to antidumping or countervailing duty orders sometimes continue to dump or receive subsidies even after duties are imposed. Instead of adjusting their pricing behavior as the laws intend, importers simply choose to absorb the duty at the border. This deprives U.S. producers the relief the trade laws were intended to provide. In such instances the CDSOA provision is the only mechanism that can offset the continued injury from unfairly traded imports.

Micron is the last remaining U.S.-based producer of DRAM semiconductors, the essential memory chips used in a host of electronics products ranging from computers, to satellites, to automobiles. CDSOA funds have been used by Micron to invest in new and upgraded capacity and in worker training here in the United States.

Some importers and consumer group have falsely asserted the CDSOA provision leads to an increase in the number of trade cases filed or to the filing of frivolous cases. The statistics simply do not bear this out. In fact, the number of cases filed each year since the CDSOA provision became law has actually fallen. Moreover, domestic industries do not file frivolous trade cases because they are very complex and very costly to prosecute. In addition, only those cases with real merit are ultimately successful at the Department of Commerce and the International Trade Commission. Even then, CDSOA duties are only distributed to domestic producers and workers when the foreign exporters continue to engage in unfair trade practices. Exporters are given every opportunity to change their unfair trade practices, but if they chose not to do so, then, and only then, do the duties get paid to the injured parties.

Finally, we believe it is premature and ill-advised to seek revocation of CDSOA. The United States has put forward a proposal in the Doha Rules Negotiations that calls on WTO member countries to adopt a provision clarifying that CDSOA is consistent with the WTO agreements. Why would Congress undermine the position of U.S. negotiators at this time?

For the reasons set forth above, Micron strongly urges you to refrain from incorporating H.R. 1121 into a larger miscellaneous tariff bill package and from even taking action on H.R. 1121 on a stand-alone basis.

Thank you for your consideration.

Sincerely,

Roderic W. Lewis
Vice President of Legal Affairs & General Counsel

MJ Wood Products, Inc.
Morrisville, Vermont 05661
August 15, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to the Ways and Means Committee's July 25, 2005 Press Release, MJ Wood Products, Inc. and its 51 employees strongly oppose H.R. 1121 and its inclusion in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. The Continued Dumping and Subsidy Offset Act ("CDSOA") must be preserved to maintain effective remedies against unfairly traded imports. Congress should not treat its revocation as some sort of "technical correction."

MJ Wood Products, Inc. is a manufacturer of solid wood furniture located in Morrisville, Vermont. Our sales have eroded tremendously due to unfairly priced imports from China since 2000 when we employed 107 people. While the number of employees may seem small in the large picture, these jobs are vital to the local economy.

Unfairly priced imports from China contributed to the closing of over 65 U.S. wooden bedroom furniture factories during 2001–2004. These factories employed over 18,000 workers. Over 30 law firms that represented the Chinese Government and over 100 Chinese companies opposed our industry's antidumping petition. The Chinese Government even helped pay the legal fees of the Chinese companies. In 2004, we won our case, and the United States imposed antidumping duties to offset the dumped prices. Despite the antidumping order, however, we fear that some Chinese furniture exporters are continuing to dump their product in the United States at very low prices. They simply absorb the duties rather than adjust their prices to non-injurious levels as the law was intended

We need CDSOA to ensure that our antidumping order has its intended effect. CDSOA discourages foreign exporters from continuing to dump, because they know that their U.S. competitors are the ones that receive the duties they pay. In addition, if foreign producers choose to continue to dump, then CDSOA compensates the companies that are hurt by the continuing unfair trade practices. CDSOA distributions will enable our company to preserve U.S. manufacturing jobs.

One of the criticisms leveled at CDSOA is that it encourages the filing of frivolous petitions. This is completely untrue. CDSOA was certainly not the reason that our industry filed its antidumping petition. In fact, we understand that the number of cases filed has gone down considerably since CDSOA was enacted.

Finally, Congress should not consider repealing CDSOA at a time when negotiators in Geneva are considering a U.S. proposal to amend the WTO Antidumping Agreement to clarify that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, your Committee should urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering our comments.

Sincerely,

Geoffrey Jackson
President

Mobel, Inc.
Ferdinand, Indiana 47532
August 29, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to the Ways and Means Committee's July 25, 2005 Press Release, Mobel, Inc. and its 126 employees strongly oppose H.R. 1121 and its inclusion in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. The Continued Dumping and Subsidy Offset Act ("CDSOA") must be preserved to maintain effective remedies against unfairly traded imports. Congress should not treat its revocation as some sort of "technical correction."

Mobel, Inc. is located in Ferdinand, Indiana. Founded in 1971, our company manufactures solid wood bedroom furniture and has seen steady growth, with 2000 being a record year in sales. Since that time we have seen our sales plummet some 42%. While a small portion of this can be attributed to a slowing economy, most of it is due to the flood of low-priced, undervalued imports coming from overseas. This decline has led to fewer employees, less hours, and lower wages. All of this translates into less tax dollars to the government and a continued weak economy. Our company does not oppose free trade, but rather supports "fair trade." We only ask that other countries abide by some of the same stringent rules and guidelines that govern our business in the U.S., and that their pricing reflect their actual costs. Currently, companies in Asian countries are able to buy our hardwoods (a precious natural resource), and ship finished product back into this country for less money than we can buy the hardwoods.

Unfairly priced imports from China contributed to the closing of over 65 U.S. wooden bedroom furniture factories during 2001–2004. These factories employed over 18,000 workers.

Our industry's antidumping petition was opposed by over 30 law firms that represented the Chinese Government and over 100 Chinese companies. The Chinese Government even helped pay the legal fees of the Chinese companies. In 2004, we won our case, and the United States imposed antidumping duties to offset the dumped prices. Despite the antidumping order however, we fear that some Chinese furniture exporters are continuing to dump their product in the United States at very low prices. They simply absorb the duties rather than adjust their prices to non-injurious levels as the law was intended

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Thank you for considering our comments.

Kenneth J. Lamkin
President

Montana Cattlemen's Association
Billings, Montana 59107
September 2, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

Montana Cattlemen's Association (MCA) is a state wide organization representing over 1,300 cattle producers and their families. Our producer members are directly impacted by the effects of foreign imports displacing domestic production and having direct impact on our domestic prices.

Montana Cattlemen's Association welcomes the opportunity to comment on the bills being considered for inclusion in the miscellaneous package, in particular H.R. 1802, "A bill to amend the Tariff Act of 1930 with respect to the marking of imported live bovine animals," H.R. 1121, "A bill to repeal section 754 of the Tariff Act of 1930," and H.R. 2473, "A bill to amend the Tariff Act of 1930 relating to determining the all-others rate in antidumping cases."

H.R. 1802 is an important bill and one that should not attract significant controversy. MCA believes it makes sense to include this bill in the miscellaneous trade package. Federal law already requires that, in general, imports must be marked with their country of origin. For many years, however, the Treasury Department has exempted livestock by including it on its "J-list" (19 C.F.R. §134.33) of imports that need not be marked or branded pursuant to the requirements of the Trade Act of 1930. Livestock should not be exempted from those requirements. It is not impractical to require imported livestock to be indelibly marked, and it is important to require marking, not only for tracking and identification, but to demonstrate the commitment of the United States to compliance with established U.S. rules on inspection and testing.

The miscellaneous trade bill has been used in the past to amend the Tariff Act of 1930 to specify particular imports for which country-of-origin marking is expressly required. For example, the marking of certain silk products was specifically

required by the Miscellaneous Trade and Technical Corrections Act of 1999, and the marking of certain coffee and tea products as well as the marking of spices was explicitly required by the Miscellaneous Trade and Technical Corrections Act of 1996. Like these prior amendments, H.R. 1802 logically should be included in the miscellaneous trade package, and MCA urges its inclusion and enactment.

H.R. 1121 and H.R. 2473, however, are not well suited for inclusion in the miscellaneous trade package. These bills are likely to attract significant controversy and would constitute major changes to U.S. trade remedy laws. MCA supports maintaining strong and effective trade laws. Such laws are necessary to ensure a level playing field for U.S. ranchers, cattlemen, and farmers, as well as U.S. manufacturers and workers. In a fair market, U.S. producers are second to none. When foreign competitors flood the U.S. market with dumped and subsidized goods, however, the trade laws must be in place to provide a remedy for injury caused by unfairly traded imports. MCA believes it would be inappropriate to use the miscellaneous trade bill to weaken those laws, but that will be the effect if H.R. 1121 and H.R. 2473 are included in the package.

H.R. 1121 proposes to repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"). CDSOA is a program that distributes antidumping and countervailing (AD/CVD) duties when dumping or subsidization continues after AD/CVD orders are imposed. The existence of continued dumping and subsidization indicates that fair market conditions have not been restored and that the industry that was found to be injured by dumped or subsidized imports is not getting the remedy intended by the statute. CDSOA funds are distributed to certain domestic parties for eligible expenditures on plant, equipment, and people, that is, for reinvesting in their businesses. The program is funded using duties collected on dumped and subsidized imports. If dumping or subsidization stops after an order is issued, there are no funds to distribute. CDSOA does not change how dumping margins or subsidy rates are calculated or how much duty must be paid. The program simply distributes moneys pursuant to generally applicable criteria when unfair trade practices do not cease. CDSOA enjoys wide bi-partisan support among Members of Congress and the public, and any legislation to repeal it would attract substantial controversy and strong opposition. Thus, MCA believes that H.R. 1121 should not be included in the miscellaneous trade bill.

H.R. 2473 proposes to amend the antidumping law to delete the word "entirely" from subparagraphs (A) and (B) of section 735(c)(5) of the Tariff Act of 1930. While this may appear to be a small change, in reality, if enacted, H.R. 2473 could prevent Commerce from effectively enforcing the antidumping law. H.R. 2473 would make it virtually impossible for Commerce to calculate "all-others" dumping margins for non-investigated exporters in most cases. The "all-others" rate, which is applied to non-investigated exporters, is a weighted average of dumping margins calculated for individually investigated exporters. Margins based *entirely* on "facts available" data are excluded from the average under the current law. "Facts available" data is information Commerce uses as a substitute for actual company-specific data when a respondent company does not supply all the data necessary to calculate a dumping margin. Margins that are based only in part on facts available are used to calculate the "all-others" rate because many dumping margins calculated by Commerce are based on at least some "facts available" data.

H.R. 2473 would require Commerce to exclude all dumping margins based on any amount of "facts available" information from the "all-others" rate calculation. The effect of this would be, in most cases, that Commerce would be left with no margins to calculate an "all-others" rate. This would result in serious administrative difficulties for the Department, which would consequently weaken the antidumping law. Hence, H.R. 2473 is likely to attract significant controversy and would likely not be administrable by the Commerce Department.

MCA is also concerned that H.R. 1121 and H.R. 2473 appear to be efforts to implement adverse decisions of panels and the Appellate Body of the World Trade Organization ("WTO"). The miscellaneous trade bill is not an appropriate means by which to implement such decisions and enact changes in major U.S. trade laws. Furthermore, Congress and the Administration have been critical of overreaching by WTO panels and the Appellate Body and have expressed concern that the decisions on CDSOA and the "all-others" rate, in particular, created new obligations that the United States never agreed to and which are not found in the text of any WTO Agreement. In addition, Congress has previously directed the Administration to negotiate a resolution of these disputes at the WTO. The Administration is currently engaged in the Doha Round rules negotiations and should be allowed to complete that process, which ought to result in a correction of the problems created by panel and Appellate Body overreaching.

Because H.R. 1121 and H.R. 2473 are both controversial bills that are likely to draw strong opposition, and because their enactment would cut short the ongoing process of negotiations at the WTO, the Subcommittee should deem them inappropriate for inclusion in the miscellaneous trade package.

Again, MCA appreciates the opportunity to submit these comments and would like to thank the Subcommittee for taking into account MCA's views on the three bills discussed above.

Respectfully submitted,

Brett DeBruycker
President

Moosehead Manufacturing Company
Monson, Maine 04464
August 29, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to the Ways and Means Committee's July 25, 2005 Press Release, Moosehead Manufacturing Company and it's 170 employees strongly oppose H.R. 1121 and its inclusion in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. The Continued Dumping and Subsidy Offset Act ("CDSOA") must be preserved to maintain effective remedies against unfairly traded imports. Congress should not treat its revocation as some sort of "technical correction."

Moosehead Manufacturing Company is headquartered in Monson Maine and has plants in Monson and Dover-Foxcroft Maine. We are one of the major employers in Piscataquis County, one of the poorest counties in the United States.

Unfairly priced imports from China contributed to the closing of over 65 U.S. wooden bedroom furniture factories during 2001–2004. These factories employed over 18,000 workers. Our company alone has seen it's workforce shrink by nearly 80 jobs in the last four years. Our industry's antidumping petition was opposed by over 30 law firms that represented the Chinese Government and over 100 Chinese companies. The Chinese Government even helped pay the legal fees of the Chinese companies. In 2004, we won our case, and the United States imposed antidumping duties to offset the dumped prices. Despite the antidumping order, however, we fear that some Chinese furniture exporters are continuing to dump their product in the United States at very low prices. They simply absorb the duties rather than adjust their prices to non-injurious levels as the law was intended

We need CDSOA to ensure that our antidumping order has its intended effect. CDSOA discourages foreign exporters from continuing to dump, because they know that their U.S. competitors are the ones that receive the duties they pay. In addition, if foreign producers choose to continue to dump, then CDSOA compensates the companies that are hurt by the continuing unfair trade practices. CDSOA distributions will enable our company to preserve U.S. manufacturing jobs.

One of the criticisms leveled at CDSOA is that it encourages the filing of frivolous petitions. This is completely untrue. CDSOA was certainly not the reason that our industry filed its antidumping petition. In fact, we understand that the number of cases filed has gone down considerably since CDSOA was enacted.

Finally, Congress should not consider repealing CDSOA at a time when negotiators in Geneva are considering a U.S. proposal to amend the WTO Antidumping Agreement to clarify that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, your Committee should urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering our comments.

John Wentworth
President

Mountain Avenue Bees, Inc.
Hesperia, California 92344
August 26, 2005

Ways & Means Committee
U.S. House of Representatives

Honorable Ways & Means Committee Members:

My name is Ron Spears, President/Owner of Mountain Avenue Bees, Inc. in Hesperia, California. I would like to express my **opposition of H.R. 1121** to repeal the Byrd Amendment (Continued Dumping and Subsidy Offset Act of 2000).

I started this business over 25 years ago and currently employ 25 people in Southern California and North Dakota. We currently run approx. 15,000 hives and are members of Sioux Honey Assn. In the last 18 months we have seen honey prices fall to half of what they were prior. This is below our cost of production. As an industry, we need help and your support to repeal H.R. 1121 to protect the investments I have made in my company, i.e. new equipment, employees, increased hives, etc. It's not just about the honey market; it's about the beekeeping industry in general. Honeybees in this country contribute to over 10 billion dollars toward pollinating various crops in the U.S.

In closing, I strongly urge you to support the beekeeping industry by opposing this legislation.

Ron Spears
President/Owner

National Cement Company of California, Inc.
Encino, California 91436
August 22, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to the Committee's July 25, 2005 Press Release, I am writing on behalf of National Cement Company of California, Inc. (NCCCA) and its over 700 employees to express our strong opposition to the inclusion of H.R. 1121 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 1121 is a highly controversial bill that would repeal the Continued Dumping and Subsidy Offset Act ("CDSOA"). It can by no means be fairly described as a "technical correction" to existing law.

NCCCA is headquartered in California and operates a cement plant that markets cement to the southern half of the State. NCCCA through its affiliates also operates 22 ready-mix concrete plants throughout the same marketing territory.

In the late 1980's, our industry was severely damaged by dumped imports of cement from Mexico. The unfairly low prices of Mexican cement caused U.S. cement plants to close and took away any incentive to invest in new cement capacity. In 1990, the United States imposed antidumping duties on Mexican cement. Unfortunately, however, the dumping has not stopped. In fact, in the 13 administrative reviews conducted since the order was imposed, the Department of Commerce found that the dumping margin of CEMEX, S.A., the dominant Mexican producer, has averaged 63 percent. That means that even with the antidumping order in place, CEMEX's cement prices to customers in Mexico have been 63 percent higher than its cement prices to customers in the United States. The root cause of this unfair pricing behavior—a Mexican cement market that is closed to foreign competition—also has not changed since the antidumping order was imposed.

CDSOA both discourages continued dumping and also compensates the victims of such continuing unfair trade. The law merely provides that antidumping duties are distributed to the supporters of the original antidumping petition. If and when the dumping stops, so do the CDSOA distributions. Thus, CDSOA has no impact on fairly traded imports.

CDSOA distributions to date under the cement antidumping order have been very limited because the Mexican Government has refused to appoint NAFTA panelists to hear pending appeals of administrative reviews going back a number of years.

It would be extremely unfair to U.S. cement producers to repeal CDSOA before these very old entries are liquidated and available for distribution. When distributed, these duties will help U.S. cement producers to invest in new production capacity and to create new jobs.

Contrary to what some consumers of unfairly priced imports have claimed, CDSOA has not led to the filing of frivolous antidumping petitions. In fact, the filing of new petitions has fallen sharply since CDSOA was enacted in 2000.

Finally, it makes no sense to repeal CDSOA while negotiators in Geneva are considering a U.S. proposal to amend the WTO Antidumping Agreement to clarify that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, your Committee should urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering these comments.

Respectfully,

Don Unmacht
President

Statement of Lawrence T. Graham, National Confectioners Association, and Lynn Bragg, Chocolate Manufactures Association, Vienna, Virginia

This statement is submitted by the National Confectioners Association and the Chocolate Manufacturers Association (NCA and CMA) in response to the House Ways and Means Committee's request for comments on Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills, Bill H.R. 1121.

I. Summary of the U.S. Confectionery Industry's Position

The industry welcomes this opportunity to express our support for the inclusion of H.R. 1121, legislation to repeal the Continued Dumping and Subsidy Offset Act (aka "Byrd Amendment"). The Byrd Amendment must be repealed in order to put an end to the retaliatory tariffs currently assessed by Mexico on U.S.-origin chewing gum and sugar confectionery. These higher tariffs will negatively impact U.S. exports to Mexico, the largest U.S. export market for chewing gum and second largest U.S. export market for sugar confectionery. If Congress does not act to repeal the Byrd Amendment, our industry will also be left open to the possibility of further retaliation by Brazil, Chile, India and Korea. The repeal of the WTO-illegal Byrd Amendment is essential for our industry to maintain its competitive position in these important export markets.

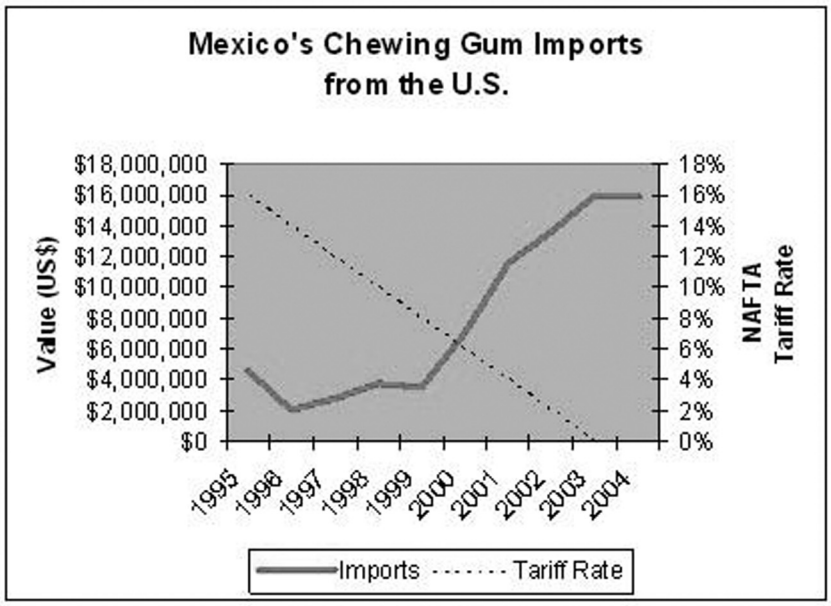
II. Trading Partners' Retaliation as a Result of the U.S. Failure to Repeal the Byrd Amendment

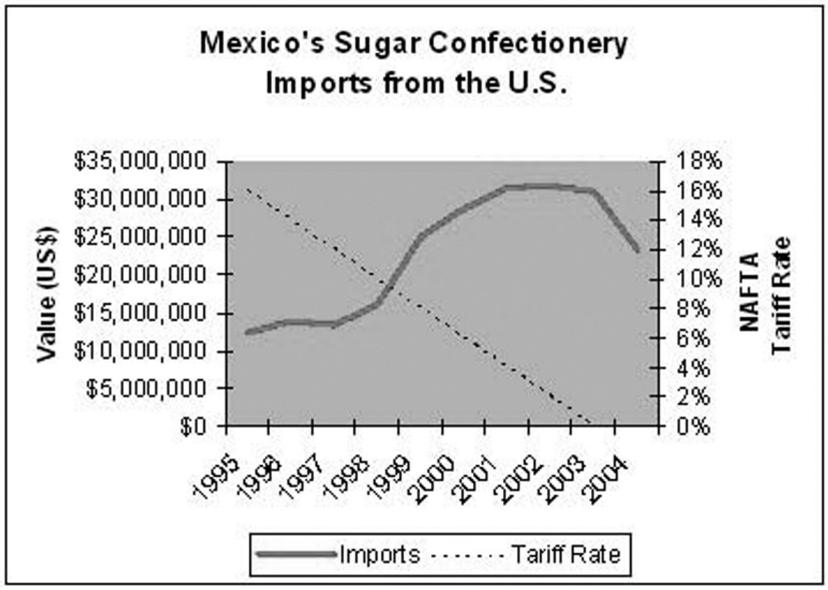
In November 2004, the WTO authorized eight U.S. trading partners—Brazil, Canada, Chile, the EU, India, Japan, Korea and Mexico—to retaliate against the U.S. for its failure to repeal the Byrd Amendment, which the WTO had ruled to be illegal in 2003. According to USTR, these countries are not required under WTO rules to make the development of their retaliation lists an open process, so there is no warning required on the imposition of higher duties. The U.S. confectionery industry was hurt by this lack of transparency when on August 17, 2005, Mexico announced that beginning the very next day, it would begin assessing retaliatory tariffs on two of our members' priority products—chewing gum and sugar confectionery. With no prior warning, U.S. exporters were suddenly subject to significantly higher duties in Mexico, as shown in the chart below:

Mexico's Retaliatory Tariffs			
Tariff Code	**Description**	**2005 NAFTA Duty**	**Retaliatory Duty**
1704.10.01	Chewing Gum	0%	9%
1704.90.99	Sugar Confectionery	0%	9%

III. Loss of NAFTA Benefits as a Result of Trading Partners' Retaliation

Mexico's imposition of a 9% retaliatory tariff on U.S.-origin chewing gum and sugar confectionery undermines the benefits U.S. producers have achieved under NAFTA. NAFTA has reduced tariffs on U.S.-origin chewing gum and sugar confectionery from 20% before the agreement was implemented to zero in 2003. This reduction in tariffs has allowed U.S. exports to Mexico to dramatically increase over the past 10 years. Mexico now imports four times more chewing gum from the U.S. than it in the first years of NAFTA, and imports of U.S.-origin sugar confectionery have doubled. The graphs below illustrate the direct relationship between the reduction in tariffs under NAFTA and the tremendous growth in Mexico's imports of U.S.-origin chewing gum and sugar confectionery.





The loss of NAFTA benefits resulting from Mexico's imposition of retaliatory duties in response to the U.S. failure to repeal the Byrd Amendment is likely to severely affect the U.S. confectionery industry. U.S. confectionery manufacturers are expected to react in two primary ways:

1. ***Production Will Shift to Mexico:*** Large-multinational companies that have production facilities in Mexico will likely shift production from the U.S. to Mexico in order to maintain duty-free access to the Mexican market. The resulting decrease in demand for U.S. confectionery production could threaten jobs in the U.S. confectionery industry. Both those workers involved in making the final products, as well as those involved in the supplying of inputs, such as sugar, nuts, and dairy, are at risk of job loss.
2. ***U.S. Producers Will Absorb Higher Costs:*** Small confectionery companies that lack confectionery production in Mexico stand to lose the most from the increase in tariffs on chewing gum and sugar confectionery because they will be forced to absorb the 9% tariffs into their bottom line order to stay competitive in the Mexican market. Mexico's retaliatory tariff will increase their costs and therefore lower profits, which could also force companies to reduce output and consequently, their workforce.

The net result of the production shift to Mexico and reduced revenues of U.S. confectionery exporters will be a decrease in U.S. exports. U.S. exporters have not faced tariffs as high as 9% in Mexico since 1998. If the Byrd Amendment is not repealed and Mexico maintains its retaliatory tariffs at 9%, Mexico's imports of U.S.-origin chewing gum and sugar confectionery are likely to fall back to their 1998 levels, representing a decline of up to 75% from 2004 levels. Repealing the Byrd Amendment would eliminate these retaliatory duties, and allow U.S. confectionery companies to resume the duty-free access to the Mexican market they are entitled to under NAFTA.

IV. Potential for Future Retaliation from Other Trading Partners

Until the Byrd Amendment is repealed, the U.S. confectionery industry may also be impacted by retaliation from Brazil, Chile, India and Korea. All four of these countries have received authorization from the WTO to retaliate against the U.S. for its failure to repeal the WTO-illegal Byrd Amendment, and to date, none of these countries has announced its list of products subject to increased duties. If Chile imposes retaliatory duties on U.S. confectionery products, the effect would be similar to that of Mexico since U.S. exporters currently receive duty-free access under the U.S.-Chile FTA. However, if Brazil, India or Korea increases tariffs on U.S. confectionery exports, because our members' products currently pay the MFN rate in all

three countries, U.S. exports would face tariffs greater than all other WTO countries, thereby effectively pricing them out of the market. Repealing the Byrd Amendment is essential for our industry to maintain its competitive position in these important export markets.

V. Background on the Sugar Confectionery, Chocolate, and Chocolate Confectionery Industries:

Four hundred companies, all members of the Chocolate Manufacturers Association and the National Confectioners Association, manufacture more than 90% of the chocolate and confectionery products in the United States. Another 250 companies supply those manufacturers. The industries are represented in 35 states with particular concentration in California, Colorado, Florida, Georgia, Illinois, Louisiana, New Jersey, New York, Pennsylvania, Tennessee and Texas. Over 59,000 jobs in the U.S. are directly involved in the manufacture of confectionery and chocolate products. The employment effect triples when the distribution and sale of these products is taken into consideration.

The U.S. chocolate and confectionery industries are a principal consumer of key U.S. agricultural commodities:

- ***Sugar:*** **2.4 billion pounds annually or 6.5 million pounds a day.** Confectionery and chocolate manufacturers are the second largest users of sugar in the U.S., most of which is domestic sugar. The value of sugar consumed in manufacture of chocolate and non-chocolate confectionery is **$658 million annually.**
- ***Milk and Milk Products:*** **1.1 billion pounds annually or 2.9 million pounds per day.** The value of dairy products consumed in the making of chocolate last year was **$482 million.**
- ***Peanuts:*** **327 million pounds of domestic peanuts annually.** The chocolate and confectionery industries consume 25% of the U.S. crop.
- ***Almonds:*** **43 million pounds of California almonds annually valued at $67 million.**
- ***Sweeteners:*** **1.4 billion pounds of corn syrup sweeteners** are used annually valued at over $162 million.

The U.S. confectionery and chocolate industries together generated **$16.5 billion in sales** in 2004of chocolate, chocolate confectionery, and sugar confectionery products.

Together the two industries **exported more than $801million** in chocolate, chocolate confectionery, and sugar confectionery products **to more than 100 countries around the world**.

In 2004, **U.S. exports to Mexico** totaled over ***$39 million*** in chewing gum and sugar confectionery.

In 2004, **U.S. exports to Brazil, Chile, India and Korea** totaled over ***$41 million*** in chewing gum, sugar confectionery, chocolate and chocolate confectionery.

We look forward to working with Congress to repeal the Continued Dumping and Subsidy Offset Act.

National Fisheries Institute
McLean, Virginia 22102
September 1, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Trade Subcommittee
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw,

National Fisheries Institute (NFI) appreciates the opportunity to provide the House Ways and Means Subcommittee on Trade with written comments on legislation making technical corrections to U.S. trade laws and the miscellaneous duty suspension bills. Specifically, the NFI strongly supports passage of H.R. 1121, legislation designed to repeal the Continued Dumping and Subsidy Offset Act (CDSOA), commonly referred to as the Byrd Amendment.

The National Fisheries Institute is the nation's leading trade association for the fish and seafood industry and represents a wide spectrum of firms, from small, family-owned businesses to large multinational corporations. Our members are U.S. firms that operate fishing vessels and aquaculture facilities, that process and pack-

age fish, that export and import fresh and frozen products and that sell seafood to Americans at retail shops and restaurants.

Fish and seafood products are among the most globally traded of all commodities. Many of our large companies export two thirds of their products to the European Union and Asia. And since nearly eighty percent of seafood that Americans eat is imported, the issue of a more liberalized international trade environment is of key and strategic importance to seafood community and its consumers.

While there are many reasons for our continued opposition to the Byrd Amendment, I would like to take this opportunity to highlight one aspect of the NFI's opposition that has recently developed: the fifteen percent surcharge on U.S. oysters exported to Canada. As you know, In January 2003, eleven WTO members (Australia, Brazil, Canada, Chile, the European Union, India, Indonesia, Japan, Mexico, South Korea and Thailand) successfully challenged the Byrd Amendment and on August 31, 2004, the WTO Arbitrator ruled that those countries could retaliate against the United States by up to 72 percent of the annual level of anti-dumping and countervailing duties on their respective exports disbursed to U.S. companies.

On March 31, 2005, Canada announced that it would retaliate against the United States by applying a fifteen percent surtax on Canadian imports of U.S. live swine, cigarettes, oysters and certain specialty fish (e.g. ornamental fish, frozen tilapia or monkfish). These retaliatory duties will took effect on May 1, 2005, following approval of the necessary Orders in Council.

Much to the dismay of many domestic oyster producers based in the Gulf of Mexico, and on the Atlantic and Pacific coasts, numerous U.S. seafood distributors involved in exporting oysters to Canada have halted business agreements with companies based in that country as a result of the fifteen percent surcharge. Trade blockades such as the Canadian tax on U.S. seafood products will only continue to mount unless Congress repeals the Byrd Amendment.

While the Continued Dumping and Subsidy Offset Act of 2000 was originally passed under the auspices of "protecting" American businesses, the American seafood industry and the millions of families that depend on it have proven to be an unfortunate and unwilling illustration of why the Byrd Amendment is not a benefit to American workers or consumers. The American seafood processing and distributing industry employs hundreds of thousands of Americans in plants located in nearly every state. The packers, distributors and restaurants that serve seafood, both imported and domestic, employ millions more. Finally, families who rely on a steady source of cost-effective and safe seafood choices as a part of their healthy diet are forced to cover the cost effects of the Byrd Amendment when purchasing seafood at their local fish markets, grocery stores and restaurants.

With this letter, the National Fisheries Institute would like to reiterate our strong opposition to the Continued Dumping and Subsidy Offset Act of 2000 and our continued support for H.R. 1121. We encourage the Committee to include the language of H.R. 1121 in any miscellaneous duty suspension bills it takes into consideration during the 109th Congress.

Sincerely,

John Connelly
President

Statement of National Retail Federation

The National Retail Federation (NRF) submits this statement to the Ways and Means Trade Subcommittee to express the U.S. retail industry's strong support for two bills—H.R. 1121 and H.R. 3416—and opposition to one, H.R. 445, under consideration for inclusion in a miscellaneous trade bill. NRF is the world's largest retail trade association with membership that comprises all retail formats and channels of distribution including department, specialty, discount, catalog, Internet and independent stores as well as the industry's key trading partners of retail goods and services. NRF represents an industry with more than 1.5 million U.S. retail establishments, more than 23 million employees—about one in five American workers—and 2004 sales of $4.1 trillion. As the industry umbrella group, NRF also represents more than 100 state, national and international retail associations.

H.R. 1121—A bill to repeal Section 754 of the Tariff Act of 1930

Section 754 of the Tariff Act of 1930, known as the Continued Dumping and Subsidy Offset Act (CDSOA), became law as a result of what can only be described as an abuse of the legislative process. One Member of the Senate Appropriations Com-

mittee succeeded in slipping the provision into a conference report on an agriculture appropriations bill the night before the House of Representatives was scheduled to vote on the massive piece of legislation.[1] Not only were most Members of Congress unaware that the CDSOA (now known also as the "Byrd amendment") had been added to the legislation until after the vote, they were denied the opportunity to understand its full ramifications through committee hearings, public comment, or debate.

Since its passage, the CDSOA has proven to be one of the worst pieces of trade legislation passed in recent memory. It is an outrageous example of corporate welfare that doles out to a handful of companies hundreds of millions of dollars in no-strings-attached subsidies courtesy of the American taxpayer. To no great surprise for those who understood its deficiencies but had no opportunity to correct them (including Administration officials), the CDSOA was also found to violate U.S. obligations under the rules of international trade. In short, the CDSOA is a paradigm example of how efforts to circumvent the legislative process result in ill-considered and flawed statutes, from which flow a host of damaging consequences.

Thus, it came as no surprise to the members of the NRF that in January 2003, the World Trade Organization (WTO) appellate body upheld an earlier WTO dispute settlement panel ruling that correctly found the CDSOA in violation of U.S. international trade obligations. After Congress failed to repeal the law by the deadline of December 27, 2003, the WTO authorized retaliation against U.S. exports, which four countries have already initiated.[2]

Since this successful challenge to the CDSOA, the United States now faces the problem of how to comply with the WTO decision when the politics of doing so present increasingly daunting hurtles. Supporters of the CDSOA—companies and industries that now have a vested financial interest in maintaining the gravy train—have persuaded many Members of Congress to oppose its repeal. They have done so through a campaign of disinformation that portrays the antidumping remedy as a form of compensation for what they incorrectly characterize as illegal, predatory, and injurious corporate behavior by foreign manufacturers,[3] rather than what the antidumping remedy really is—a price correction mechanism.

Therefore, NRF and the U.S. retail industry applaud the introduction of H.R. 1121 to repeal the CDSOA and support its inclusion in a miscellaneous trade bill. Examination of the impact of the CDSOA since it went into effect presents compelling arguments supporting the conclusion that it is bad law and should be repealed. Specifically, the CDSOA has funneled more than $1 billion (with billions more possibly in the offing) from the U.S. Treasury general fund—away from spending on public education, transportation, energy self-sufficiency, housing, the courts, enforcement of our environmental laws, national security, or other basic services of the federal government—and into the pockets of companies that are unaccountable to the American taxpayer or anyone else regarding what they do with the money. It is, in short, unmerited and unlawful corporate welfare and a frightful waste of government money.[4]

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[1] The provision was in neither version of the appropriations bill that had earlier passed the House and Senate. In addition, this action violated the rule against placing legislation of this sort on appropriations bills. Moreover, because the provision was added to a conference report, there was virtually no chance that Members would be able to object to its inclusion even if they knew the provision had been inserted into the conference report.

[2] The WTO has approved a request by the European Union, South Korea, Japan, Canada, Brazil, Mexico, India, and Chile to impose retaliatory tariffs against U.S. goods in an amount equal to 72 percent of the duties collected on their exports to the United States subject to the CDSOA. Retaliation not only harms U.S. exporters, but, with consumer goods frequently the target in such cases, many U.S. retailers are also harmed.

[3] One common piece of disinformation circulated by supporters of the CDSOA is that dumping by foreign companies constitutes illegal, predatory activity. This assertion is fundamentally false. Neither U.S. law nor the WTO Antidumping Code define dumping—sale at a price lower than the home-market price or the cost of production—as illegal, and predatory behavior is neither required nor even relevant to a finding of dumping.

The WTO Antidumping Code permits, *but does not require,* countries to employ an antidumping remedy as a price correction mechanism to offset what may be deemed, under the provisions of the Code, to be *unfairly*-priced (*i.e.*, the price in the exporting country is higher than in the importing country) imports that result in material injury to domestic producers of a like product. In addition, if dumping were per se illegal, U.S. law would presumably prohibit American companies from engaging in such activity. In fact, there is no prohibition in U.S. law against U.S. companies selling at dumped prices in the U.S. market (or any other market for that matter) even when it results in injury to other U.S. companies.

[4] It is unmerited because the antidumping and countervailing duties that are imposed on "unfair" imports renders those imports "fair," by increasing their cost at the U.S. border by the amount of the subsidy or dumping rates. As such, when the imports enter U.S. commerce, they are no longer "unfair." The assessment of the antidumping or countervailing duties remedies

The CDSOA virtually defines "corporate welfare" that American taxpayers can no longer afford, in this day of large federal budget deficits. Indeed, the money at stake from the CDSOA is so large for so many companies and industries[5] that they are willing to expend millions of dollars on lobbyists to ensure that the CDSOA is not repealed.

A second reason to support passage of H.R. 1121 and its inclusion in a miscellaneous trade bill is that the CDSOA undermines the proper administration of the trade remedies laws and harms average American consumers and the U.S. economy. It does so by encouraging, and in effect subsidizing, companies to join in the filing of antidumping and countervailing duty petitions they would otherwise not have supported, and against products that would otherwise not have been included in the scope of the investigations because they are not produced in the United States.[6] For example, the recent antidumping investigations against shrimp were supported by a list of more than 4,000 shrimpers and processors, all of whom were persuaded to do so through the lure of promised cash bonuses from the federal government after the duties were imposed.[7] Those CDSOA disbursements were such an important component in this investigation that at one point, when the shrimp processors moved to have fresh shrimp removed from the scope of the investigation (because it represents such a small share of the market and none is imported), shrimpers that catch fresh shrimp launched a lawsuit against the processors to preserve their claim to receive CDSOA monies.[8] Who were the real losers? American families for

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the imbalance and adjusts the price of the imports to their "fair value." This is all the antidumping and countervailing duty laws are intended to do. Further transferring those collected duties to U.S. producers is thus an unintended and unwarranted double benefit to those companies and industries. Not only do they no longer need to compete with "unfair" imports due to the increase in prices created by the offsetting duties, but they get a (frequently) huge check from the U.S. Treasury with no restrictions as to how they spend the money. One could imagine the hue and cry in Congress were other countries to employ a similar mechanism to the CDSOA, thereby forcing U.S. exporters essentially to subsidize their foreign competitors.

[5] In fiscal year 2004, Byrd amendment distributions totaled nearly $281 million, of which three quarters (approximately $210 million) went to four industries—bearings, steel, candles, and cement. The bearings industry alone received almost $80 million in Byrd distributions, of which the lion's share of over $65 million was handed over to two companies—Timken Company and MPB Corporation. By the same token, one candle manufacturer, Lancaster Colony Corp., received over half ($26 million) of the more than $51 million in Byrd money distributed to the U.S. candle industry that year.

[6] Companies that do not support a petition render themselves ineligible for the CDSOA government subsidy, and thereby place themselves at a distinct disadvantage vis-&-vis their domestic competitors. Thus, the CDSOA effectively puts the U.S. Government in the position of picking winners and losers among competing U.S. companies. Moreover, the CDSOA distribution formula ensures that large companies with greater resources at their disposal receive the lion's share of the Byrd distribution money, thereby further disadvantaging small, struggling U.S. companies. These large, politically-connected companies, like ball bearing manufacturer Timken Co. and steelmaker United States Steel Corp., end up receiving tens of millions of taxpayer dollars for doing nothing more than checking a box on a questionnaire from the U.S. International Trade Commission. Needless to say, these companies are also staunch defenders of the CDSOA.

Also, because the CDSOA provides a perverse incentive for petitioners also to target subcategories of products that are not made in the United States, the CDSOA also forces the U.S. Government to handicap U.S. companies in other industries—American retailers, manufacturers, and farmers—that have to pay in duties on imports they need and cannot get from domestic sources.

[7] Department of Homeland Security, Customs and Border Protection, "Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers; Notice," *Federal Register*, June 1, 2005 (Volume 70, Number 104), pages 31565–31614.

[8] In 2003, the Louisiana Shrimp Association (LSA), which represents commercial fishermen, seafood processors and retailers, originally joined with the Southern Shrimp Alliance (SSA), an eight-state consortium of shrimpers and processors, to drum up industry support for a shrimp antidumping petition. However, the LSA broke ranks when it realized that the petition submitted by SAA only sought penalties against imports of certain frozen and canned shrimp, but not fresh shrimp. With the scope of the petition excluding fresh shrimp, the LSA feared its members would not be eligible for Byrd duty disbursements. In a February 2004 letter to Commerce Secretary Donald Evans, the LSA said the Southern Shrimp Alliance misled harvesters to sign statements of support for the petition without indicating that they intended to limit the scope of the petition to frozen and canned shrimp. LSA also complained that the SSA told fishermen that if they did not sign statements of support they would be ineligible to receive any Byrd amendment funds. The LSA subsequently asked the Commerce Department to include fresh shrimp as part of its investigation because an amended petition would "most clearly preserve harvesters' eligibility for Byrd Amendment funds."

The fight over the potential CDSOA monies was even taken to federal court when the LSA filed a lawsuit on April 29, 2004, asking a judge to declare whether its members were eligible for monetary rewards.

whom shrimp has become an increasingly important part of their food diets, and the retailers (grocery stores, restaurants) who serve them.

A third important reason to support H.R. 1121 and its inclusion in a miscellaneous tariff bill is that the CDSOA induces recipients to oppose termination of antidumping orders either through settlement or sunset reviews, even when any rationale for keeping them in place has long passed. For example, the CDSOA has become a large obstacle to resolving the softwood lumber dispute between the United States and Canada. The unwillingness of U.S. lumber producers to relinquish their claimed entitlement under the Byrd amendment to some $4 billion in duties in that long-running trade dispute has prevented the parties from reaching a resolution of that case. Ending this dispute would eliminate the uncertainty and higher costs of lumber to American homebuilders and consumers, prospective homeowners, and the retailers who serve them.

By the same token, members of the WTO envisioned that antidumping orders should not continue in perpetuity. They created a rule requiring WTO members to review antidumping cases after five years to determine if the order should be terminated. However, the lure of and increasing dependence of recipients on Byrd money has resulted in domestic petitioners routinely opposing termination of petitions during these sunset reviews, even long after the original order was issued. For example, the original antidumping order on petroleum wax candles from China was issued in 1986. Now, nearly 20 years after the original order was issued, tens of millions of dollars in antidumping duties are still being collected and distributed to petitioners. In the latest, recently concluded sunset review, not only did the lure of Byrd money lead petitioners to fight vehemently against termination of the order, but it also induced them to try to expand the scope of the order to sweep in products that were not under the original order. For candle manufacturers, the importance of the CDSOA is highlighted by the fact that it is now a line item in their corporate income statements, income that for some dwarfs what they earn through sales of the products they ostensibly produce.

Finally, as long as the CDSOA remains on the books, it will increasingly act to undermine U.S. global leadership on trade. The ability of our trading partners to paint the United States as a scofflaw for failure to repeal this law will deal a serious blow to U.S. credibility in WTO negotiations and dispute settlement cases that are of key importance to U.S. trade policy objectives and our economy.[9]

These are just a few of the reasons why it is high time to repeal the CDSOA, and why NRF and the U.S. retail industry strongly support H.R. 1121 and encourage its inclusion in the next miscellaneous tariff bill.

H.R. 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements

NRF and the U.S. retail industry also strongly support H.R. 3416 and its inclusion in a miscellaneous trade bill. As long ago as September 1996, the U.S. General Accounting Office (GAO), as it was then called, issued a report evaluating the Committee for the Implementation of Textile Agreements (CITA),[10] the multi-agency government entity responsible for administering of the system of textile an apparel quotas. That report triggered calls by Members of Congress, including Members of the Ways and Means Committee, for "broad reform of the *covert* procedures of the CITA bureaucracy . . . The GAO report describes a hidden and erratic process at CITA which results in indefensible decisions to impose import quotas."[11]

Nothing has changed in the last nine years with respect to how CITA operates. CITA continues to have a huge negative impact on American consumers, particularly low-income American families, and operates behind closed doors. Claiming coverage under the "foreign affairs" exemption from the Administrative Procedures Act, CITA makes decisions to impose quotas on imports from China and other countries (most notably, Vietnam), out of public view and with no accountability and little opportunity for meaningful public comment.

In addition, CITA's traditional role changed radically in 2002, when the President designated it as the government entity responsible for administering the China tex-

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[9] For example, last year's appropriations legislation required the United States to put forward a negotiating proposal to legitimize the Byrd Amendment under WTO rules. Such a proposal ought to be a complete non-starter, and clearly constitutes an effort to delay repeal so that the corporate welfare recipients can continue to receive more government checks.

[10] United States General Accounting Office, Textile Trade: Operations of the Committee for the Implementation of Textile Agreements, September 1996, GAO/NSIAD–96–186.

[11] House Ways and Means Committee Chairman Bill Archer, quoted in "Congressional Legislators Urge Reform of Textile Trade Committee," *Daily Executives Report*, Bureau of National Affairs, October 7, 1996, p. A–4 (emphasis added).

tile safeguards mechanism, ostensibly a quasi-judicial administrative remedy. Under the textile safeguards procedures, however, retailers and other interested parties that have opposed safeguards quotas have no opportunity to comment on whether a petition even meets the basic requirements for initiation of a safeguards investigation. CITA accepts only written comments after it has accepted a petition (which it almost always does), and holds no hearings as does the U.S. International Trade Commission that administers other types of safeguards remedies. Finally, CITA written decisions do not respond to and, for the most part, ignore points raised in opposition, and fail to meet even the most basic standards applicable to other agencies. Particularly with its expanded role in administering the China textile safeguard mechanism, it is simply unacceptable for CITA to continue to operate essentially as a "star chamber," unaccountable under even the most basic standards and protections afforded under U.S. administrative law.

In a day and age when the United States demands that our trading partners adhere to open and transparent regulatory procedures, it is astounding that an arm of the United States government is allowed to continue to operate in secret and free from any judicial oversight or accountability. No U.S. government agency that does not deal with national security matters and that has such a major financial impact on both U.S. companies and consumers should be shielded in this manner from public scrutiny and remain essentially immune from judicial review.

H.R. 3416 would simply open CITA up to public view and judicial scrutiny. It is a very modest bill in that it makes no further changes in the ways in which CITA operates. It will not restrict or retard in any way CITA's ability to respond to charges that increased imports are causing or threatening to cause market disruption. It merely ensures that the process of responding to those charges is clear and open, and that CITA decisions are based on substantial evidence on a record gathered during an investigation, and are not made in a manner that is arbitrary or capricious. As civil society groups frequently remind us, transparency is a good thing. Thus, H.R. 3416 should be completely non-controversial and is certainly long overdue. NRF strongly encourages its inclusion in the next miscellaneous tariff bill and its ultimate passage by Congress.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marketing of imported home furniture

Finally, NRF opposes H.R. 445, regardless of how it is packaged (as stand-alone legislation or as part of another piece of legislation). The measure is unworkable and unnecessary. It is unworkable because not all furniture can bear a sign that is at least 70 square centimeters in size that would not significantly detract from the appearance of the furniture (e.g., wall mirrors).

It is unnecessary because U.S. law and regulation already require that a country of origin designation be placed on a product in such a way that the final consumer can readily ascertain its origin. Currently labels are typically placed at the back of a piece of furniture or inside it (for example, within a dresser drawer) to provide the information to the consumer without marring its appearance and diminishing its value.

Retail companies' long experience with customer relations has consistently shown that the vast majority of consumers do not care about the country of origin of the products they buy, at least to the extent that they demand the information be placed in a more conspicuous location. Those who are concerned can readily ascertain the origin under current rules. Therefore, as a practical matter, legislation such as H.R. 445 is not designed to inform customers more fully, but rather to act as a non-tariff trade barrier. As such, it would be actionable through the dispute settlement procedures at the WTO as being in violation of U.S. obligations under the rules of international trade.

NRF appreciates the opportunity to offer these comments on three possible components of a miscellaneous trade bill. We strongly support and urge the inclusion of H.R. 1121 and H.R. 3416, and strongly oppose and urge the exclusion of H.R. 445.

Neenah Foundry Company
Neenah, Wisconsin 54957
May 30, 2005

Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Members of the Committee:

On behalf of the 950 employees of Neenah Foundry Company, located in more than a dozen states,[1] I am writing to express our strong opposition to H.R. 1121 in the pending Miscellaneous Tariff Bill that calls for repeal of the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"). The CDSOA needs to be maintained to help companies such as Neenah Foundry Company, who have been harmed and continue to be harmed by dumped and subsidized imports.

My company has fought expensive battles over dumped and subsidized imports for over 20 years, yet in the past we received only prospective relief when a case was won. Under the CDSOA, my company has been able to apply for and receive a portion of the duties collected under the antidumping and countervailing duty laws over the past five years. CDSOA funds have allowed my company to make the investments necessary to our competitiveness in the face of continued unfair trade practices by our foreign competitors. Without these funds, we would not have been able to make a significant number of investments during this time. The CDSOA only provides refunds to companies like mine when unfair trade practices continue, despite the imposition of an antidumping or countervailing duty order. The CDSOA is an important tool, therefore, for U.S. industries to use to combat continued unfair trading practices.

The CDSOA funds, which have been received by my company, came to us at a critical juncture. During the CDSOA timeframe, we had undertaken a financial restructuring via a pre-packaged Chapter 11 filing. The CDSOA funds helped us by providing additional investment dollars, which contributed to our ongoing investment in cost reducing, facility enhancements, and mandatory environmental compliance upgrades. We emerged from Chapter 11 on October 8, 2003 and are persevering in this very competitive business climate.

The CDSOA is working exactly as Congress envisioned. It provides badly-needed funds for investment to companies, like mine, who have been proven to have been injured by unfair foreign trade. I urge you, therefore, to resist any effort to repeal the CDSOA as well as to fight efforts to undermine the CDSOA in the World Trade Organization.

Sincerely,

Timothy J. Koller
Vice President—Construction Product Sales and Engineering

North American Stainless
Ghent, Kentucky 41045
August 22, 2005

Dear Members of the House Ways and Means Committee,

North American Stainless (NAS) is a manufacturer of stainless steel with 1,100 employees in Carroll County, Kentucky. We have smaller facilities in Minooka, Illinois and in Riverside, California.

I am writing to relay our opposition to H.R. 1121 in the Miscellaneous Tariff Bill which calls for the repeal of the CDSOA as well as H.R. 273 in the Miscellaneous Tariff Bill. We expect that you will continue to support manufacturing jobs here in the U.S. and support the U.S. Government's sovereign right to distribute taxes as determined by Congress by fighting efforts to undermine the CDSOA in the World Trade Organization. Fair trade is important for all U.S. producers. The CDSOA has had a positive effect on NAS's ability to compete against dumped and subsidized imports into our domestic market.

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[1] Neenah Foundry Company has distribution outlets in Arizona, California, Colorado, Illinois, Indiana, Minnesota, Missouri, Nebraska, New York, Ohio, Oklahoma, Pennsylvania, Texas, and Wisconsin and sales representation in all 50 States.

We appreciate your support.
Sincerely,

Mary Jean Riley
Vice President
Finance and Administration

NSK Corporation
Ann Arbor, Michigan 41805
September 2, 2005

Chairman E. Clay Shaw, Jr.
House Ways and Means Committee
Subcommittee on Trade
1104 Longworth House Office Building
Washington, DC 20515–6348

Dear Chairman Shaw:

NSK Americas (NSK), a leading U.S. manufacturer of ball bearings and other components, with its U.S. headquarters in Ann Arbor, Michigan, appreciates the opportunity to offer its comments on the Continued Dumping and Subsidy Offset Act (The Byrd Amendment). Specifically, we support H.R. 1121, legislation introduced by yourself and Representative Jim Ramstad of Minnesota that would repeal this Amendment.

NSK is opposed to the Byrd Amendment for the following reasons: The amendment puts our facilities in the United States at a competitive disadvantage in the marketplace, creates an artificial incentive to bring antidumping claims, and its continued enforcement undermines the credibility of the global trading system on which our workers depend.

1. The Byrd Amendment Puts NSK's U.S. Workers at a Competitive Disadvantage

Had the Byrd Amendment received the appropriate scrutiny by Congress, many of the problems that it could have been expected to cause for U.S. workers would have surfaced in the course of debate prior to its passage. Unfortunately, its effects to U.S. manufacturing are only now being discussed.

Proponents of the Byrd Amendment claim to be representing the interests of U.S. workers. However, in a globalized economy many U.S. workers can be negatively affected by ill-conceived measures, however well-intended. NSK Americas is one of the largest producers of ball bearings in the United States, employing over 2,100 people in ball bearing and related manufacturing facilities in Indiana, Iowa, Michigan and Vermont. In order to provide the full range of products that our customers need, NSK Americas supplements its offerings of U.S.-made goods with other products manufactured by NSK group companies at various overseas plants. Some of these imports are subject to antidumping duty orders.

Whereas, previously these duties would be retained by the U.S. Treasury, under the Byrd Amendment, any anti-dumping or subsidy penalties assessed as a result of a successful anti-dumping or subsidy petition are distributed to the competing U.S. companies that supported the filing of the petition and the imposition of duties. Thus, the Byrd Amendment places NSK Americas in the unenviable position of either offering a less than complete product line, or subsidizing our competitors to remain competitive at the most price-sensitive accounts.

There are other examples of how the Byrd Amendment creates an un-level playing field. In the bearings industry, the typical pattern of all producers is the same as described for NSK: that is, some of the production is local to the customer base, and imports then are used to fill out the product line. In this regard, our competitors, including the Timken Company (the largest recipient of Byrd Amendment funds) are no different from NSK.

In fact, in addition to being the petitioner in many antidumping cases, Timken is also a respondent in bearings cases as a result of its imports from Germany, which currently are subject to anti-dumping duties. Amazingly, under the Byrd Amendment process, Timken can reclaim the duties that it pays upon importation. NSK cannot. This gives Timken the ability to dump into the U.S., and increase its market share via the sale of unfairly traded imports, all with impunity.

Ultimately, under the Byrd Amendment regime, our workers in the United States are put at a disadvantage and NSK is pressured to contract its U.S. labor force in order to compete in the marketplace.

Public policy-wise, if the benefits of this subsidy to our competition contributed to greater employment in the United States, one could perhaps argue in its favor. Yet, the allocation of Byrd Amendment money is based on "qualified expenditures" by petitioner companies. These expenditures are not monitored or audited by U.S. Customs or any government agency. Consequently, there is no way to demonstrate that the duties paid to Byrd Amendment fund recipients are being used in a way that benefits the U.S. economy or its workers.

In fact, the available evidence shows that this money has not protected any particular American jobs. In the bearings industry, between fiscal 2001 and 2004, $398 million in anti-dumping duties were levied on Japanese imports, with hundreds of millions more levied on European imports.

It is important to note that the level of antidumping duties is significant primarily due to (1) the practice of the Commerce Department to "zero" the value of above-fair-value sales, so that even one dumped sale out of thousands will still produce a positive margin;[1] (2) the Commerce Department after 14 years of practice, modified its model matching methodology retroactively, thus making sales that NSK and other bearing companies believed to have been at fair value "dumped" as a result of "after the fact" rule changes; and (3) the highly competitive U.S. market occasionally requires pricing that cannot be met other than through a below fair value sale.

More than $390 million in antidumping duties levied were paid out to just two recipients, both of which are U.S. competitors to NSK—The Torrington Company and The Timken Company, which acquired Torrington in 2003. Notwithstanding this enormous outlay, there has been no corresponding increase in employment that is traceable to the infusion of funds. Rather, Timken—itself a global competitor with overseas manufacturing—has invested in new facilities in China while shuttering facilities in the United States. This can hardly be the type of economic enhancement the authors of the legislation anticipated or intended.

2. The Byrd Amendment Provides an Incentive To File Antidumping Claims

Despite the lack of tangible economic benefit to U.S. consumers or the U.S. economy, the number of claims, the number of claimants, the amount sought and the average per-company disbursement have been rising. In 2004 alone, $284 million was paid out to U.S. manufacturers who filed successful dumping or subsidy cases.

By compensating petitioners and supporters of petitions, the Byrd Amendment provides an additional financial incentive to file antidumping and countervailing duty cases. Furthermore, by excluding from compensation those companies or unions not supporting the petitions, the law encourages companies that might otherwise decline to support petitions to do so simply to maintain eligibility for compensation. This incentive structure undermines the statutory requirement that administering authorities use to determine whether there is sufficient industry-wide support for a petition before initiating an investigation.

Certainly, the possibility of receiving payments for supporting a petition has potential to corrupt the process. A producer otherwise disinclined to support the petition may choose to support it to avoid being disadvantaged if its domestic competitors are paid for supporting a petition and it is not. This is particularly realistic since there is minimal economic cost to supporting a petition when one is not the petitioner.

3. The Byrd Amendment Undermines Trade Enforcement Policies

Trade has been an integral component of world economic growth for more than half a century. The legitimacy of the World Trade Organization (WTO) as an institution is compromised by the refusal of member countries to recognize their obligations to comply with WTO decisions. While it is in the right of any sovereign WTO member to ignore dispute settlements findings, and endure trade retaliation if it occurs, the system is premised on consensus and compliance. It is ultimately unsustainable, if any country, particular the U.S., chooses to exercise that right into infinity.

NSK relies on a fair and transparent trading system for our imports into the United States as well as our exports to third countries. Clearly, the Byrd Amendment redistribution of antidumping duties constitutes a measure beyond the scope of what is permissible under the Agreement on Subsidies and Countervailing Measures (ASCM) and the Antidumping Agreement. The agreements expressly permit the imposition of definitive duties, provisional duties, or price undertakings (suspen-

[1] The WTO has found "zeroing" to be contrary to the "fair comparison: requirements of Article 2.4 of the Antidumping Agreement in multiple cases which have been brought challenging the practice of zeroing by the EU and by the U.S. Canada recently dropped its zeroing practice to conform its antidumping calculations to the norm established through these WTO decisions.

sion agreements) to offset the effects of dumping or subsidization. No other remedies, including Byrd Amendment-style distribution of duties to protection seeking companies are allowed.

Predictably, the WTO ruled in August, 2004, that eight trading partners are entitled to retaliation for U.S. failure to comply with its rulings against the Byrd Amendment. And, in fact, on September 1, 2005, Japan imposed an additional 15 per cent tariff on 15 U.S. imports, the bulk of which are ball-bearing and steel products. This follows the additional tariffs on a range of U.S. products authorized by the European Union and Canada in May, 2005.

Many Members of Congress have dismissed efforts at repeal of the Byrd Amendment often noting the limited amount of retaliation authorized. It should be a concern to the business community that a trade issue has to reach an extremely large amount of monetary penalties before Members will address the obligations of the United States in the trading system.

In conclusion, our workers in the United States must have a level playing field in order to remain competitive. NSK supports H.R. 1121, and insists this bill be included in any trade legislation undertaken by Congress this year.

Sincerely,

Tom Rouse
President and Chief Operating Officer

Statement of David W. Hughes, Oregon Truss Co. Inc., Salem, Oregon

Oregon Truss is a small privately held company of 55 employees serving Oregon and SW Washington State. We represent about $7 million dollars in annual sales with a payroll of $1.6 million dollars annually.

My company produces structural building components—specifically, metal-plate connected wood trusses—which are made primarily of softwood lumber and light gauge, galvanized steel connector plates. Our products are used mainly in residential homes across the country, as well as multi-family dwellings and light-commercial and agricultural buildings.

The "Continued Dumping and Subsidy Offset Act of 2000," often called the "Byrd Amendment," allows for the distribution of CVD/AD deposits to affected U.S. producers who originally petition for trade remedies that result in the imposition of such duties. I am writing in support of H.R. 1121, and a repeal of this "Byrd Amendment."

According to the International Trade Commission (ITC), 36% of the softwood lumber used in the U.S. comes from Canada. Based on our industry financial performance statistics, combined with a study done by the ITC, the structural building component industry's annual steel purchases are approximately 475,000 tons of steel in truss plates and an additional 130,000 tons in connectors.

Hence, my company's competitiveness and profitability are directly harmed by the protectionist trade remedies encouraged and exacerbated through the Byrd Amendment.

Please allow me to offer the following observations:

Byrd Creates Perverse Incentive:

The Byrd Amendment is bad policy because it essentially creates a double benefit for targeted companies: first, through an increase in prices due to a tariff-induced reduced supply; and second, through the distribution of tariff dollars to the petitioning companies that already gain the benefit from the increase in prices.

As a consequence, the Byrd Amendment has simply encouraged additional U.S. companies to file more protectionist trade suits to reap the benefits of a direct payment from their marketplace competitors.

Byrd Encourages Protectionist Trade:

According to the World Trade Organization, as recently as 1997 only 15 antidumping cases were filed in the U.S., and only nine in the entire first half of 2000. But since the Byrd Amendment took effect, the numbers have climbed to 76 in 2001, 35 in 2002, and 37 in 2003.

Forty-four U.S. companies have each collected at least $1 million through the Byrd Amendment in 2004, and total assessed duties were over $284.1 million. From 2001 through 2004, U.S. Companies have benefited from more than $1.04 billion through this protectionist trade law.

Byrd Makes My Problems Worse:

First, as stated earlier, the Byrd Amendment encourages the filing of CVD/AD trade remedy cases. These trade tariffs artificially raise the cost of my raw materials, like softwood lumber and steel, which also leads to unnecessary uncertainty or restriction of supply.

Second, the Byrd Amendment makes it possible for nearly $4 billion in CVD/AD duties collected on the importation of Canadian softwood lumber to be distributed to U.S. petitioning companies. However, U.S. petitioning companies account for only 54 percent of U.S. softwood lumber production. This provides an unfair competitive advantage to these petitioning companies.

Third, the possibility of distribution created by the Byrd Amendment of this nearly $4 billion in CVD/AD duties makes a negotiated settlement of the softwood lumber dispute between the U.S. and Canada nearly impossible.

Byrd Unfair, Passed Unfairly:

The Byrd Amendment was passed as an add-on to a last minute appropriations bill, without consideration by the appropriate committees of Congress/

The Byrd Amendment creates harm to consuming industries like mine, and yet I have no ability to participate meaningfully in the trade cases the Byrd Amendment encourages. Repeal of the Byrd Amendment is an essential step in allowing consuming industries an opportunity to protect our trade interests.

Byrd Harms International Trade:

The WTO ruled the Byrd Amendment illegal two years ago, and in November 2004 it gave formal approval for Canada, Japan, the EU and four other jurisdictions to retaliate against the U.S. for refusing to amend or rescind the Byrd Amendment.

In March 2005, the Canadian government announced it would impose a punitive 15 percent duty, equaling $11.6 million annually, on targeted goods including oysters, live swine, specialty fish and cigarettes imported from the U.S. The EU announced similar punitive tariffs as well on paper, agricultural, textile and machinery products imported from the U.S.

Unbalanced Canadian Competition:

The Northwest has seen a substantial increase in wood components coming across the border from our Canadian competitors. This is a direct result of the amendment. It is possible to produce components in Canada, import them into the U.S. and ship as far south as California, Arizona, and Nevada and do so for as much as 30% less than we can do it for domestically. The increased cost of our largest single raw material—lumber, makes it impossible for us to compete with this. Many 'border' state companies like ours are now looking into partial or complete manufacture of our product in Canada to survive.

Thank you for allowing me to provide my comments on H.R. 1121, please feel free to contact me if you have any questions or need for further information.

Pacamor Kubar Bearings
Troy, New York 12180
September 1, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

This letter is in response to a July 25, 2005 notice from the Subcommittee, No. TR–3, which requested comments concerning technical corrections to U.S. Trade Laws and miscellaneous duty suspension proposals. Pacamor Kubar Bearings ("PKB") is an American owned and operated precision miniature and instrument ball bearing manufacturer. We have been manufacturing quality bearings for over 40 years, serving industries such as aerospace, aircraft instrument, medical and dental instruments, computers, flow meters, and many others. PKB welcomes the opportunity to provide the Subcommittee with comments on two bills under consideration, in particular H.R. 1121, "A bill to repeal section 754 of the Tariff Act of 1930," and H.R. 2473, "A bill to amend the Tariff Act of 1930 relating to deter-

mining the all-others rate in antidumping cases." We believe the inclusion of these bills in the miscellaneous trade package would weaken U.S. trade laws and attract significant controversy.

PKB's operations have been the target of unfair trade for several decades. We have, therefore, been committed to maintaining the strength of U.S. trade remedies so as to permit fair competition with our foreign counterparts. Unfairly dumped and subsidized imports threaten not only PKB's operations, but the strength of the domestic industry as a whole. Indeed, many U.S. bearings producers have been forced out of business as a result of unfairly traded goods. It is imperative that our trade laws are not weakened by the inclusion of bills such as H.R. 1121 and H.R. 2473 in the miscellaneous trade package.

In particular, H.R. 1121 would repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"). CDSOA permits the distribution of money to domestic parties for eligible expenditures on plant, equipment, and employee-related expenses such as health benefits when an industry has been found injured by dumped or subsidized imports. The monies distributed are derived from duties owed when dumping and/or subsidization continues. If the unfair trade ceases, there are no duties to be collected and therefore, no funds to be distributed. There is widespread bi-partisan support for CDSOA by both members of Congress and strong public support for this law. Repeal of CDSOA would not only foster strong opposition and attract significant controversy, but would also serve to undermine the effectiveness of import relief to domestic industries.

Similarly, H.R. 2473 should not be included as this amendment would prevent the Department of Commerce from calculating "all-others" dumping margins for non-investigated exporters in a large subset of cases, rendering this provision of the law almost entirely ineffectual. The "all-others" rate, which is applied to all non-investigated exporters, is a weighted average of dumping margins calculated for individually investigated exporters. When individually investigated exporters do not provide Commerce with all of the data necessary to calculate a dumping margin, Commerce will use "facts available" as a proxy for such data either in whole or in part. This means that Commerce will supplement an exporter's data with generally available public information. Where an exporter has not provided any information, and Commerce is forced to rely ***entirely*** on facts available, existing U.S. law precludes Commerce from then using the resulting margin of that individually investigated entity in a weighted average calculation to determine the "all-others" rate.

H.R. 2473 would remove the word "entirely" from subparagraphs (A) and (B) of section 735(c) (5) of the Tariff Act of 1930. The practical effect of such deletion is that Commerce would then also be precluded from including any individually-investigated exporter's margin, based ***in part*** on facts available, in its calculation of the "all-others rate." As it is often the case that at least a small part of an exporter's dumping margin is calculated using facts available, the enactment of H.R. 2473 would mean that in a large majority of cases, Commerce would have no usable margins by which to calculate an "all-others rate." This would create serious administrative difficulties for Commerce and would substantially weaken the antidumping law.

It is also the case that both H.R. 1121 and H.R. 2473 appear to be in response to decisions of panels and the Appellate Body of the World Trade Organization ("WTO"). Inclusion of these bills in the miscellaneous trade package is not the appropriate forum to effect changes to U.S. Trade Laws in order to implement WTO panel or Appellate Body reports. This is particularly significant as Congress and the Administration have been concerned that WTO Panels and the Appellate Body have engaged in overreaching in their decision on CDSOA, on the calculation of the "all-others rate," and on other issues by creating obligations that the U.S. never agreed to and which do not appear in the text of the WTO Agreements. The more appropriate form to deal with resolution of these issues is through the Doha Round negotiations.

In conclusion, we strongly oppose the inclusion of H.R. 1121 and H.R. 2473 in the miscellaneous trade package for the reasons stated herein. This legislation should be non-controversial, and, therefore, not include bills that would attract significant opposition and undermine U.S. trade laws.

Thank you for your consideration of our comments.

Respectfully submitted,

Augustine J. Sperrazza, Jr.
Chairman and CEO

Plum Building Systems Inc.
Osceola, Iowa 50213
August 29, 2005

To: House Ways & Means Committee

The "Continued Dumping and Subsidy Offset Act of 2000," often called the "Byrd Amendment," allows for the distribution of CVD/AD deposits to affected U.S. producers who originally petition for trade remedies that result in the imposition of such duties. I am writing in support of H.R. 1121, and a repeal of this "Byrd Amendment."

Our company produces structural building components—metal-plate connected wood trusses, open-web floor trusses, stair cases and wall panels—which are made primarily of softwood lumber and light gauge, galvanized steel connector plates. Our products are used mainly in residential homes across the mid west, as well as multi-family dwellings and light-commercial and agricultural buildings. We employ approximately 75 people in Osceola Iowa, 50 in New Hampton Iowa and 30 in Williston North Dakota. The two Iowa locations represent about $15,000,000 in annual sales and about $3,000,000 in North Dakota.

According to the International Trade Commission (ITC), 36% of the softwood lumber used in the U.S. comes from Canada. Based on our industry financial performance statistics, combined with a study done by the ITC, the structural building component industry's annual steel purchases are approximately 475,000 tons of steel in truss plates and an additional 130,000 tons in connectors.

Hence, our company's competitiveness and profitability are directly harmed by the protectionist trade remedies encouraged and exacerbated through the Byrd Amendment. Please allow me to offer the following observations:

Byrd Creates Perverse Incentive:

The Byrd Amendment is bad policy because it essentially creates a double benefit for targeted companies: first, through an increase in prices due to a tariff-induced reduced supply; and second, through the distribution of tariff dollars to the petitioning companies that already gain the benefit from the increase in prices.

As a consequence, the Byrd Amendment has simply encouraged additional U.S. companies to file more protectionist trade suits to reap the benefits of a direct payment from their marketplace competitors.

Byrd Encourages Protectionist Trade:

According to the World Trade Organization, as recently as 1997 only 15 anti-dumping cases were filed in the U.S., and only nine in the entire first half of 2000. But since the Byrd Amendment took effect, the numbers have climbed to 76 in 2001, 35 in 2002, and 37 in 2003.

Forty-four U.S. companies have each collected at least $1 million through the Byrd Amendment in 2004, and total assessed duties were over $284.1 million. From 2001 through 2004, U.S. Companies have benefited from more than $1.04 billion through this protectionist trade law.

Byrd Makes My Problems Worse:

First, as stated earlier, the Byrd Amendment encourages the filing of CVD/AD trade remedy cases. These trade tariffs artificially raise the cost of my raw materials, like softwood lumber and steel, which also leads to unnecessary uncertainty or restriction of supply.

Second, the Byrd Amendment makes it possible for nearly $4 billion in CVD/AD duties collected on the importation of Canadian softwood lumber to be distributed to U.S. petitioning companies. However, U.S. petitioning companies account for only 54 percent of U.S. softwood lumber production. This provides an unfair competitive advantage to these petitioning companies.

Third, the possibility of distribution created by the Byrd Amendment of this nearly $4 billion in CVD/AD duties makes a negotiated settlement of the softwood lumber dispute between the U.S. and Canada nearly impossible.

Byrd Unfair, Passed Unfairly:

The Byrd Amendment was passed as an add-on to a last minute appropriations bill, without consideration by the appropriate committees of Congress/

The Byrd Amendment creates harm to consuming industries like ours, and yet we have no ability to participate meaningfully in the trade cases the Byrd Amendment encourages. Repeal of the Byrd Amendment is an essential step in allowing consuming industries an opportunity to protect our trade interests.

Byrd Harms International Trade:

The WTO ruled the Byrd Amendment illegal two years ago, and in November 2004 it gave formal approval for Canada, Japan, the EU and four other jurisdictions to retaliate against the U.S. for refusing to amend or rescind the Byrd Amendment.

In March 2005, the Canadian government announced it would impose a punitive 15 percent duty, equaling $11.6 million annually, on targeted goods including oysters, live swine, specialty fish and cigarettes imported from the U.S. The EU announced similar punitive tariffs as well on paper, agricultural, textile and machinery products imported from the U.S.

Thank you for allowing me to provide my comments on H.R. 1121, please feel free to contact me if you have any questions or need for further information.

Richard Parrino
General Manager

Precision Metalforming Association
Independence, Ohio 44131
August 29, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

On behalf of the Precision Metalforming Association (PMA), I would like to express our strong support for the inclusion of H.R. 1121, legislation to repeal the "Continued Dumping and Subsidy Offset Act" (CDSOA), commonly known as the Byrd Amendment, in the miscellaneous trade bill.

PMA, headquartered in Independence, Ohio, has 1,200 member companies employing more than 150,000 Americans in 41 states who use metal stamping, roll forming, spinning, laser cutting and precision punching technologies to cut and form flat rolled steel into metal parts, assemblies, and end products. Customer markets include virtually every manufacturing sector: defense, medical, agriculture, off-highway, lawn and garden, construction, telecommunications, toys, large and small appliances, consumer products, office machines, industrial and consumer hardware, automotive and others.

The overall metalworking industry employs more than 1.4 million workers in a broad range of steel-consuming industries including forging, casting, precision machining, turned parts, spring coiling, cold heading, tool and die and mould building technologies

Metalforming manufacturers rely on both imported and domestic raw materials or components to maintain global competitiveness. PMA members must compete with global companies, particularly from China, every day and supports strong trade laws. However, the Byrd Amendment adds additional incentive beyond "leveling the playing field" for domestic companies to file dumping petitions. It encourages those companies that would otherwise not join in a trade petition to do so in order to receive "Byrd money" because they could be at a competitive disadvantage if they do not join in a petition that results in distributions to their competitors. In this sense, the Byrd Amendment adds additional "punitive damage-like" incentives to file cases in that a victory enriches the filer beyond simply making them whole/leveling the playing field.

The Byrd Amendment also provides a "double hit" on importers and consumers of products subject to antidumping and countervailing duties. That is, duties are collected and then paid to *their competitors.* With this unfair structure in place, it encourages U.S. producers to file cases, covering as broad a range of products as possible, even if the producers only have a small market share and minimal product coverage.

PMA members and other American manufacturers who rely on steel as a major input are very familiar with the use of dumping and countervailing duty laws which have been used to shut out international competition and increase prices. The domestic steel industry has been the most frequent user of U.S. dumping laws. More than half the orders in place are on steel products, and they affect the market for all steel. As a result, steel users in the United States pay higher prices for steel,

often putting them at a competitive disadvantage compared with overseas competitors.

Steel users and other U.S. manufacturers suffer because companies in line to receive Byrd distributions have a clear incentive to include more products within the scope of anti-dumping cases, including products they don't even make. They also have an incentive to oppose ever eliminating any duty for fear of losing the Byrd money. In an unanticipated twist, it can be argued that because the duties on the imported products are funneled to the petitioning companies, the Byrd Amendment creates a disincentive to produce the product subject to the duty in the U.S. thereby continuing the "tax" on the imports.

Instead of anti-dumping duties serving as a short-term corrective action that helps ensure fair competition between U.S. producers and foreign competitors, the Byrd Amendment has made dumping duties an unfair and unwarranted subsidy for a select few U.S. industries. The result is that the Byrd Amendment contributed substantially to supply shortages, disruptions and high prices experienced by American manufacturers who use steel during recent years, especially during 2004. Millions of steel consuming manufacturing jobs depend on access to steel imports both for unique quality purposes and to remain competitive in the global marketplace.

The Byrd Amendment is a blatant subsidy that undermines far more American manufacturing jobs than it helps. Jobs lost by steel-consuming industries will be much more severe than the numbers saved by duties subject to Byrd provisions. Few companies actually benefit: more than half the Byrd Amendment payments in 2004 went to only *nine* companies, and more than 80 percent of the payments went to only *44* companies. However, those few payout are a windfall—to date, more than $1 billion has been doled out because of the Byrd Amendment.

PMA asks the Trade Subcommittee to consider the needs of American manufacturers who rely on both domestic and international suppliers. The Byrd Amendment was passed without consideration by the appropriate committees of Congress and has done unforeseen injury to American companies. Repeal of the Byrd Amendment is an essential step in allowing consuming industries an opportunity to protect their interests and is a matter of fundamental fairness.

William E. Gaskin, CAE
President

P.S. Attached to this letter is an excerpt from an economic study PMA commissioned earlier this year which addresses the impact of the Byrd Amendment on steel consuming industries.

(Excerpts from this report regarding CDSOA data and its impact on steel consuming industries are attached. The full report is available by contacting William E. Gaskin, president, Precision Metalforming Association)

A Negative Sum Game: The Impact of High Steel Prices on the Steel Consuming and Steel Manufacturing Industries*

by Brian C. Becker, Ph.D.**
And Kevin A. Hassett, Ph.D.***
July 2005

c. Byrd Amendment

Providing extra incentives for the U.S. steel manufacturers to file dumping cases is the Continued Dumping and Subsidy Offset Act ("CDSOA"), also commonly referred to as the "Byrd Amendment." The bill—in effect since October 28, 2000—directs the U.S Customs and Border Protection to take collections from certain AD and CVD orders and place them into a special account. Funds from this account are then distributed to those parties that originally supported the petition.[1] Furthermore, domestic companies can receive Byrd Amendment money from AD and/or CVD orders that had been in existence before the Byrd Amendment was even passed. Not surprisingly, these financial incentives were quickly realized, and in

*: Funded by the Precision Metalforming Association
**: Precision Economics, LLC; Washington, DC
***: American Enterprise Institute; Washington, DC

[1] Schmitz, Troy G. and Seale, James L. Jr., "Countervailing Duties, Antidumping Tariffs, and the Byrd Amendment: A Welfare Analysis," International Journal of Applied Economics, September 2004, p. 66–68 and Ikenson, Dan, "'Byrdening' Relations: U.S. Trade Policies Continue to Flout the Rules," *Free Trade Bulletin,* No. 5, January 13, 2004.

2001 nearly 900 separate claims were filed reportedly requesting $1.2 trillion in duties.[2]

The Byrd Amendment has shifted the tariff recipients from the U.S. Treasury to various domestic companies. That is, for each dollar of enrichment to Byrd Amendment recipients, the U.S. Treasury loses one dollar from what it would have otherwise received. In the four years of Byrd Amendment collections—concurrent with a time of increases in the Federal Budget Deficit—more than $1 billion has been shifted from the U.S. Treasury to specific U.S. companies. As seen in the table below and in **Table 9B,** steel manufacturers have been one of the primary recipients of Byrd Amendment funds—receiving more than 20 percent in 2004. Including steel containing products—principally bearings—increases the share of steel-related share of Byrd Amendment distributions to approximately 50 percent.

Byrd Amendment Distributions

Year	Total Amount Distributed ($ million)	Total Amount Distributed to Steel Manufacturers ($ million)	Percentage of Total Distributed to Steel Manufacturers
2001	231.2	NA	NA
2002	329.9	NA	NA
2003	190.2	$33.8	17.8 percent
2004	284.1	$58.1	20.4 percent

The annual distributions summarized above, however, may pale in comparison to future distributions as a result of the Canada softwood lumber matter. According to the Congressional Budget Office, the softwood lumber distributions would be projected to total approximately $4 billion through 2015.[3]

The Byrd Amendment adds additional incentive beyond "leveling the playing field" for domestic companies to file petitions. It encourages those companies that would otherwise not sign onto the petition to do so in order to receive "Byrd money" and to keep from being left at a competitive disadvantage by refusing to sign a petition that could result in distributions to their competitors. In this sense, the Byrd Amendment adds additional "punitive damage-like" incentives to file cases in that a victory enriches the filer beyond simply making them whole/leveling the playing field.

Two common criticisms with the Byrd Amendment are: (1) it has generally been interpreted as not conforming to international trade standards; and (2) it provides financial incentives for companies to file AD/CVD suits as a means to generate income, as opposed to a forum to address an unfair trading practice. In September 2002 the WTO dispute settlement committee found the Byrd Amendment in violation of several WTO agreements, which state that governments cannot distribute antidumping duties to protection-seeking companies. Because the United States had taken no action to respond to this finding, in January of 2004 the European Union along with several other countries sought higher tariffs against U.S. import products.[4] Further retaliation has been announced by Canada.

In essence, the Byrd Amendment provides a double hit on importers and consumers of products subject to antidumping and countervailing duties. That is, their duties are paid to their competitors. With this structure in place, it encourages U.S.

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[2] Ikenson, Dan, "'Byrdening' Relations: U.S. Trade Policies Continue to Flout the Rules," *Free Trade Bulletin,* No. 5, January 13, 2004.

[3] Due to the uncertainty over whether the dispute between the United States and Canada will result in duties, the CBO has estimated such distributions as 50 percent of their projected levels. Congressional Budget Office Letter to Congressman John M. Spratt, Jr., March 15, 2005 from Douglas Holtz-Eakin.

[4] Ikenson, Dan, "'Byrdening' Relations: U.S. Trade Policies Continue to Flout the Rules," *Free Trade Bulletin,* No. 5, January 13, 2004.

producers to file cases and to expand their coverage to a wide range of products—even if they only have a trivial market share.[5]

Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of America
Billings, Montana 59107
September 2, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

The Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of America (R–CALF USA) is submitting these comments in response to the Subcommittee's request for written comments for the record from all parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. R–CALF USA is a national, non-profit organization dedicated to ensuring the continued profitability and viability of the U.S. cattle industry. R–CALF USA has more than 18,000 members, primarily cow-calf operators, cattle backgrounders, and feedlot owners, located in 47 states.

R–CALF USA welcomes the opportunity to comment on the bills being considered for inclusion in the miscellaneous package, in particular H.R. 1121, "A bill to repeal section 754 of the Tariff Act of 1930," and H.R. 2473, "A bill to amend the Tariff Act of 1930 relating to determining the all-others rate in antidumping cases."

H.R. 1121 and H.R. 2473 are not well suited for inclusion in the miscellaneous trade package. These bills are likely to attract significant controversy and would constitute major changes to U.S. trade remedy laws. R–CALF USA supports maintaining strong and effective trade laws. Such laws are necessary to ensure a level playing field for U.S. ranchers, cattlemen, and farmers, as well as U.S. manufacturers and workers. In a fair market, U.S. producers are second to none. When foreign competitors flood the U.S. market with dumped and subsidized goods, however, the trade laws must be in place to provide a remedy for injury caused by unfairly traded imports. R–CALF USA believes it would be inappropriate to use the miscellaneous trade bill to weaken those laws, but that will be the effect if H.R. 1121 and H.R. 2473 are included in the package.

H.R. 1121 proposes to repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"). CDSOA is a program that distributes antidumping and countervailing (AD/CVD) duties when dumping or subsidization continues after AD/CVD orders are imposed. The existence of continued dumping and subsidization indicates that fair market conditions have not been restored and that the industry that was found to be injured by dumped or subsidized imports is not getting the remedy intended by the statute. CDSOA funds are distributed to certain domestic parties for eligible expenditures on plant, equipment, and people, that is, for reinvesting in their businesses. The program is funded using duties collected on dumped and subsidized imports. If dumping or subsidization stops after an order is issued, there are no funds to distribute. CDSOA does not change how dumping margins or subsidy rates are calculated or how much duty must be paid. The program simply distributes moneys pursuant to generally applicable criteria when unfair trade practices do not cease. CDSOA enjoys wide bi-partisan support among Members of Congress and the public, and any legislation to repeal it would attract substantial controversy and strong opposition. Thus, R–CALF USA believes that H.R. 1121 should not be included in the miscellaneous trade bill.

H.R. 2473 proposes to amend the antidumping law to delete the word "entirely" from subparagraphs (A) and (B) of section 735(c)(5) of the Tariff Act of 1930. While this may appear to be a small change, in reality, if enacted, H.R. 2473 could prevent Commerce from effectively enforcing the antidumping law. H.R. 2473 would make it virtually impossible for Commerce to calculate "all-others" dumping margins for non-investigated exporters in most cases. The "all-others" rate, which is applied to non-investigated exporters, is a weighted average of dumping margins calculated for

[5] Under this structure, a U.S. company with a small market share can actually earn more revenue from Byrd Amendment distributions than through its own operations.

individually investigated exporters. Margins based *entirely* on "facts available" data are excluded from the average under the current law. "Facts available" data is information Commerce uses as a substitute for actual company-specific data when a respondent company does not supply all the data necessary to calculate a dumping margin. Margins that are based only in part on facts available are used to calculate the "all-others" rate because many dumping margins calculated by Commerce are based on at least some "facts available" data.

H.R. 2473 would require Commerce to exclude all dumping margins based on any amount of "facts available" information from the "all-others" rate calculation. The effect of this would be, in most cases, that Commerce would be left with no margins to calculate an "all-others" rate. This would result in serious administrative difficulties for the Department, which would consequently weaken the antidumping law. Hence, H.R. 2473 is likely to attract significant controversy and would likely not be administrable by the Commerce Department.

R–CALF USA is also concerned that H.R. 1121 and H.R. 2473 appear to be efforts to implement adverse decisions of panels and the Appellate Body of the World Trade Organization ("WTO"). The miscellaneous trade bill is not an appropriate means by which to implement such decisions and enact changes in major U.S. trade laws. Furthermore, Congress and the Administration have been critical of overreaching by WTO panels and the Appellate Body and have expressed concern that the decisions on CDSOA and the "all-others" rate, in particular, created new obligations that the United States never agreed to and which are not found in the text of any WTO Agreement. In addition, Congress has previously directed the Administration to negotiate a resolution of these disputes at the WTO. The Administration is currently engaged in the Doha Round rules negotiations and should be allowed to complete that process, which ought to result in a correction of the problems created by panel and Appellate Body overreaching.

Because H.R. 1121 and H.R. 2473 are both controversial bills that are likely to draw strong opposition, and because their enactment would cut short the ongoing process of negotiations at the WTO, the Subcommittee should deem them inappropriate for inclusion in the miscellaneous trade package.

Again, R–CALF USA appreciates the opportunity to submit these comments and would like to thank the Subcommittee for taking into account R–CALF USA's views on the two bills discussed above.

Respectfully submitted,

Leo R. McDonnell
President

Raymour & Flanigan Furniture
Liverpool, New York 13088
September 1, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

On behalf of Raymour & Flanigan Furniture, I would like to thank you for the opportunity to comment on H.R. 1121, legislation ***to repeal*** **the "Continued Dumping and Subsidy Offset Act" (CDSOA), commonly known as the Byrd Amendment.** Our company strongly supports this legislation's inclusion in the miscellaneous trade bill.

Raymour & Flanigan Furniture, one of the largest furniture and bedding retailers in the nation, is headquartered in Liverpool, N.Y., in suburban Syracuse. The company currently employs more than 2,900 associates, and operates 56 retail stores, plus three clearance centers, 13 customer service centers and two distribution centers throughout Connecticut, Delaware, Massachusetts, New Jersey, New York and Pennsylvania.

Founded in 1947 with a single store in downtown Syracuse, N.Y., Raymour & Flanigan Furniture has now grown to be the ninth largest conventional furniture & bedding retailer in the U.S., according to the industry's leading trade publication, *Furniture Today,* and based on 2004 revenues of $531.6 million.

Raymour & Flanigan Furniture partners with manufacturers who source products domestically and globally. To provide our customers with the quality and values they want, we source domestically what is best made in the USA, and source globally what is best made elsewhere. Though we love to sell "Made in the USA," imported products sometimes provide our customers with styles and values they prefer at the prices they demand.

In 2003, as you know, a group of domestic furniture manufacturers worked to restrict consumer access to affordable high quality wooden bedroom furniture by filing an anti-dumping petition against furniture from China with the Commerce Department and the International Trade Commission. **We believe that some of these manufacturers filed the petition in order to line up to receive millions of dollars in special interest payments through the Byrd Amendment.**

Now that Commerce and the ITC approved the duties on Chinese wooden bedroom furniture, Raymour & Flanigan Furniture not only must pay the duties, but also see the monies in the future transferred to some of the same manufacturers that petitioned for the duties. Many of those manufacturers have retail components, giving an unfair advantage to our retail competitors. These duties also, unfortunately, raise prices for all consumers, reducing the potential customer base for the furniture industry.

U.S. producers file trade actions because they know that they will be eligible for Byrd money. In this sense, the Byrd Amendment adds additional "punitive damage-like" incentives to file cases; **in other words, a victory enriches the filer.** U.S. companies in line to receive these payments also have a clear incentive to include more products within the scope of anti-dumping cases—even including products not made in the U.S.—and to oppose ever eliminating any duty for fear of losing the Byrd money. Additionally, because the duties on the imported products are funneled to the petitioning companies, the Byrd Amendment creates a disincentive to produce the product subject to the duty in the U.S. ***Indeed, Byrd recipients can import the products from China themselves and be insulated from antidumping duties.***

Adding insult to injury, the furniture manufacturers who filed the trade petition will not be required to use the Byrd money they receive for job retraining, additional hiring or to improve their competitiveness. Instead, these companies simply receive a government "subsidy "on every bedroom product imported into this country that goes right into their bottom line.

Raymour & Flanigan Furniture's customers across the Northeast depend on having access to quality furniture for their homes at reasonable prices. We ask that the Trade Subcommittee consider the needs of retailers who import products, our associates, and our customers. The Byrd Amendment was passed without consideration by the appropriate committees of Congress and has done unforeseen injury to American companies.

As a matter of fundamental fairness, we ask that you include H.R. 1121 in the miscellaneous trade bill. Thank you for your leadership on this important issue.

Sincerely,

Neil Goldberg
President and CEO

Retail Industry Leaders Association
Arlington, Virginia 22209
September 2, 2005

The Honorable E. Clay Shaw
Chairman
House Ways & Means Trade Subcommittee
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Retail Industry Leaders Association (RILA), we welcome the opportunity to submit comments on technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. There are several provisions that RILA strongly supports or opposes in the list of potential bills to be included in the Miscellaneous Trade Bill.

By way of background, RILA is an alliance of the world's most successful and innovative retailer and supplier companies—the leaders of the retail industry. RILA members represent almost $1.4 trillion in sales annually and operate more than

100,000 stores, manufacturing facilities and distribution centers nationwide. Its member retailers and suppliers have facilities in all 50 states, as well as internationally, and employ millions of workers domestically and worldwide. Through RILA, leaders in the critical disciplines of the retail industry work together to improve their businesses and the industry as a whole.

H.R. 1121—A bill to repeal section 754 of the Tariff Act of 1930

RILA strongly supports the inclusion of H.R. 1121 in the Miscellaneous Trade and Tariff bill. Repeal of the "Byrd Amendment" is a top priority for RILA and its members. The Byrd Amendment annually funnels money collected from antidumping and countervailing duty cases directly to companies that file petitions. These payouts create a perverse incentive for companies to file petitions and add an increasing number of product categories to those petitions in hopes of collecting a financial windfall. In addition, the presence of the Byrd Amendment impedes the settlement of trade cases because of the financial incentive given to the petitioners.

Since enactment of the amendment, the number of antidumping petitions filed on consumer ready products has increased. As a result of the amendment, more than $1 billion has been distributed to domestic petitioners with no strings attached and with no measurable increase to competitiveness. Repeal would not affect the operation of antidumping and countervailing duty laws, but would remove the perverse incentive to file cases and would keep revenue collected in the government treasury to be spent in a more appropriate way. Congress should support "fair-trade" that creates a level playing field for everyone, not just import-sensitive domestic industries.

In January 2003, the World Trade Organization Appellate Body affirmed an earlier ruling that the "Byrd Amendment" was a violation of U.S. WTO obligations. The U.S. should live up to its international obligations. The U.S. is now facing retaliatory tariffs from several countries on a wide range of products for not repealing the Byrd Amendment. In a time when export trade is so important to our economy, unnecessary duties stifle exports and cause widespread layoffs while corporate subsidies do nothing to enhance the competitiveness of domestic industries.

Consumers are the real losers in this process. By encouraging protectionist behavior, the Byrd Amendment drives up prices for American consumer by encouraging trade defense actions that can increase the cost of consumer goods. The taxpayer funds distributed as a result of the law could be better used for other purposes.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture

RILA strongly opposes this bill. Such a labeling provision is unnecessary and adds additional burdens and costs to importers and retailers. Under section 304 of the Tariff Act of 1930, imported home furniture is already required to have a permanent country of origin marking. We do not believe an additional labeling requirement is useful or appropriate.

Duty Suspension Bills

RILA supports the following duty suspension bills:

H.R. 3308—A bill to suspend temporarily the duty on erasers.
H.R. 3309—A bill to suspend temporarily the duty on nail clippers.
H.R. 3310—A bill to suspend temporarily the duty on artificial flowers.
H.R. 3311—A bill to suspend temporarily the duty on electric pencil sharpeners.

We believe that these products are not made in the United States in commercial quantities sufficient to satisfy RILA members and their customers. As well, the duty on these products averages less than 5%.

RILA also supports the following footwear duty suspension bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3388—A bill to suspend temporarily the duty on certain women's footwear.
H.R. 3389—A bill to suspend temporarily the duty on certain footwear for girls.
H.R. 3390—A bill to suspend temporarily the duty on certain protective footwear.
H.R. 3391—A bill to suspend temporarily the duty on certain athletic footwear.
H.R. 3392—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3394—A bill to suspend temporarily the duty on certain work footwear.

H.R. 3395—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Production of footwear in the United States has significantly declined over the last 20 years. Footwear manufacturers in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes

As a result, most of the current footwear duties are out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The footwear duty suspension bills being considered would eliminate the duties on several types of footwear, but will not affect the few remaining sensitive footwear categories which are still produced in the United States.

Eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

Conclusion

Thank you for the opportunity to submit comments on the Miscellaneous Trade and Tariff bill. If you have any questions, please contact Lori Denham, RILA's Senior Vice President for Policy and Planning or Jonathan Gold, RILA's Vice President Global Supply Chain Policy.

Sincerely,

Sandra L. Kennedy
President

Rich Products Corporation
Buffalo, NY 14213
August 31, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington DC 20515

Dear Mr. Chairman

I am writing to you as President and CEO of Rich Products Corporation, and welcome the opportunity to express my support for HR 1121 legislation to repeal the "Continued Dumping and Subsidy Offset Act", commonly called the "Byrd Amendment".

Rich Products is a privately held corporation based in Buffalo, New York, and has successfully produced and marketed frozen food products for American consumers for 60 years, growing to a $2 billion sales level in 2005 and employing over 6000 Associates. Our Vision for our company is to provide the Grocery and Food Service industries with great tasting, competitively-priced products.

We are continuously seeking to make our supply chain low cost and efficient, and this requires that we operate in the global market for raw materials and ingredients. As a result we are almost exclusively dependent on imports of raw shrimp for our Rich SeaPak operation which processes over 25 million pounds of shrimp a year. The imposition of "anti-dumping tariffs' on selected shrimp imports, as a result of the Byrd amendment, has more than a marginal impact on us, as the exporters pass on these egregious costs to Rich's.

Further, with the "Byrd Amendment" money being funneled to the U.S. shrimp industry petitioners, there is no urgency for, or indeed evidence of, domestic producers improving production efficiencies and competing in the global market place.

American shrimpers have not stepped up to competition and adopted modern aquacultural techniques to supply the growing American demand. Instead they seek to benefit from the worst example of "Corporate Welfare" I have witnessed.

The Byrd Amendment was passed without appropriate Congressional consideration and sends the wrong message to our trading partners. At Rich Products we believe in open and fair trade for both our domestic and international operations. We look to Congress, the Commerce Department, and through them, the WTO to make the playing field level for our company.

The potential retaliation against American exports if Congress fails to repeal the Byrd measure will be a huge cost to the manufacturers in our country, a cost to be borne ultimately by the American consumer.

I appreciate the opportunity to comment on this important issue, and request that you include H.R. 1121 in the miscellaneous trade bill.

Sincerely,

Robert E, Rich Jr.
President and CEO

Rich-SeaPak Corporation
St. Simons Island, Georgia 31522
August 30, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

On behalf of my company, I would like to thank you for the opportunity to comment on H.R. 1121, legislation to repeal the "Continued Dumping and Subsidy Offset Act" (CDSOA), commonly known as the Byrd Amendment. Our company strongly supports this legislation's inclusion in the miscellaneous trade bill.

Our company, Rich-SeaPak Corporation, is a domestic shrimp processor, founded in 1948, and headquartered in St. Simons Island, Georgia. We are owned by Rich Products Corporation of Buffalo, New York. We operate three processing plants—two in Georgia and one in Texas employing over 1,000 people in manufacturing, sales and marketing. Rich-SeaPak opposes tariffs, quotas, and other trade restrictions that interrupt the supply or interfere with the affordability of all seafood products.

To supply ample amounts of shrimp for families to enjoy at our nation's restaurants or find at grocery stores and other retail outlets, ASDA members rely on imported products.

We strongly believe that the group of domestic seafood processors that filed an anti-dumping petition with the Commerce Department and the U.S. International Trade Commission against imported shrimp from six countries was primarily motivated by the prospect of receiving Byrd money. In fact, we have seen flyers from law firms representing the shrimpers marketing the prospect of Byrd monies that were used to recruit petitioners for the shrimp case. Far from changing their business strategy to keep up with their global competitors, as we have encouraged the domestic industry to do for years, we strongly believe that the petition was filed in order to pave the way for receiving millions of dollars in special interest payments through the Byrd Amendment.

Byrd payments were so prominent in the motivation for this case that when the shrimp processors later moved to have fresh shrimp removed from the scope of the investigation, shrimpers that catch fresh shrimp launched a lawsuit against the processors to protect their Byrd monies.

We also believe that the domestic shrimpers' opposition to the current ITC Changed Circumstance Investigation for shrimp imports from Thailand and India, initiated by the ITC because of the devastation caused by the December 2004 Tsunami, is based on the fear of losing Byrd monies.

Now that Commerce and the ITC approved the duties on shrimp imports from Brazil, China, Ecuador, India, Thailand and Vietnam, Rich-SeaPak not only must pay the duties but also see the monies in the future transferred to the domestic industry as a reward for filing their lawsuit. U.S. businesses are thus sent the wrong

message from our government: that trade protectionism makes for a better business plan than modernization.

The Byrd Amendment actually helps very few companies. More than half of the Byrd Amendment payments in 2004 went to only *nine* companies, and more than 80 percent of the payments went to only *44* companies nationwide.

U.S. producers in a wide variety of sectors are now filing trade actions because they know they will be eligible for Byrd money. In this sense, the Byrd Amendment adds additional punitive damage-like incentives to file cases, in that a victory enriches the filer beyond simply "leveling the playing field." U.S. companies in line to receive these payments also have a clear incentive to include more products within the scope of anti-dumping cases and to oppose ever eliminating any duty for fear of losing the Byrd money.

The Byrd Amendment is simply bad domestic policy. The members of the domestic shrimp industry who filed the trade petition will not be required to use Byrd monies that they receive to take the steps necessary to modernize or improve their competitiveness. Instead, they can count on receiving a government handout for every subject shrimp imported into this country.

The Byrd Amendment was passed without consideration by the appropriate committees of Congress and has done unforeseen injury to American companies. We request that you include H.R. 1121 in the miscellaneous trade bill and appreciate the opportunity to comment on this important issue.

Sincerely,

Jack C. Kilgore
President

Rinker Materials
West Palm Beach, Florida 33406
September 1, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to the Committee's July 25, 2005 Press Release, I am writing on behalf of Rinker Materials and its 11,000 employees to express our strong opposition to the inclusion of H.R. 1121 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 1121 is a highly controversial bill that would repeal the Continued Dumping and Subsidy Offset Act ("CDSOA"). It can by no means be fairly described as a "technical correction" to existing law.

Rinker Materials Corporation is headquartered in West Palm Beach, FL, and is one of the largest producers of construction materials in the U.S. with products including concrete, concrete block, crushed stone and sand, asphalt, cement, concrete pipe and products, polyethylene pipe, wallboard and other building materials distribution.

In the late 1980's, our industry was severely damaged by dumped imports of cement from Mexico. The unfairly low prices of Mexican cement caused U.S. cement plants to close and took away any incentive to invest in new cement capacity. In 1990, the United States imposed antidumping duties on Mexican cement. Unfortunately, however, the dumping has not stopped. In fact, in the 13 administrative reviews conducted since the order was imposed, the Department of Commerce found that the dumping margin of CEMEX, S.A., the dominant Mexican producer, has averaged 63 percent. That means that even with the antidumping order in place, CEMEX's cement prices to customers in Mexico have been 63 percent higher than its cement prices to customers in the United States. The root cause of this unfair pricing behavior—a Mexican cement market that is closed to foreign competition—also has not changed since the antidumping order was imposed.

CDSOA both discourages continued dumping and also compensates the victims of such continuing unfair trade. The law merely provides that antidumping duties are distributed to the supporters of the original antidumping petition. If and when the dumping stops, so do the CDSOA distributions. Thus, CDSOA has no impact on fairly traded imports.

CDSOA distributions to date under the cement antidumping order have been very limited because the Mexican Government has refused to appoint NAFTA panelists to hear pending appeals of administrative reviews going back a number of years. It would be extremely unfair to U.S. cement producers to repeal CDSOA before these very old entries are liquidated and available for distribution. When distributed, these duties will help U.S. cement producers to invest in new production capacity and to create new jobs.

Contrary to what some consumers of unfairly priced imports have claimed, CDSOA has not led to the filing of frivolous antidumping petitions. In fact, the filing of new petitions has fallen sharply since CDSOA was enacted in 2000.

Finally, it makes no sense to repeal CDSOA while negotiators in Geneva are considering a U.S. proposal to amend the WTO Antidumping Agreement to clarify that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, your Committee should urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering these comments.

Sincerely,

Eddie Allsopp
President Cement Division

Karl Watson
President and Chief Operating Officer, Construction Materials

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Sandberg Furniture Manufacturing Company, Inc.
Encino, California 91436
August 15, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to the Ways and Means Committee's July 25, 2005 Press Release, Sandberg Furniture Mfg., Company, Inc. and its employees strongly oppose H.R. 1121 and its inclusion in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. The Continued Dumping and Subsidy Offset Act ("CDSOA") must be preserved to maintain effective remedies against unfairly traded imports. Congress should not treat its revocation as some sort of "technical correction."

Sandberg Furniture Mfg. Company, Inc. is headquartered in Los Angeles, CA and has its operation in three plants.

Unfairly priced imports from China contributed to the closing of over 65 U.S. wooden bedroom furniture factories during 2001–2004. These factories employed over 18,000 workers. Our industry's antidumping petition was opposed by over 30 law firms that represented the Chinese Government and over 100 Chinese companies. The Chinese Government even helped pay the legal fees of the Chinese companies. In 2004, we won our case, and the United States imposed antidumping duties to offset the dumped prices. Despite the antidumping order, however, we fear that some Chinese furniture exporters are continuing to dump their product in the United States at very low prices. They simply absorb the duties rather than adjust their prices to non-injurious levels as the law was intended

We need CDSOA to ensure that our antidumping order has its intended effect. CDSOA discourages foreign exporters from continuing to dump, because they know that their U.S. competitors are the ones that receive the duties they pay. In addition, if foreign producers choose to continue to dump, then CDSOA compensates the companies that are hurt by the continuing unfair trade practices. CDSOA distributions will enable our company to preserve U.S. manufacturing jobs.

One of the criticisms leveled at CDSOA is that it encourages the filing of frivolous petitions. This is completely untrue. CDSOA was certainly not the reason that our industry filed its antidumping petition. In fact, we understand that the number of cases filed has gone down considerably since CDSOA was enacted.

Finally, Congress should not consider repealing CDSOA at a time when negotiators in Geneva are considering a U.S. proposal to amend the WTO Antidumping Agreement to clarify that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, your Committee should urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering our comments.

Sincerely,

John A. Sandberg
President

Phillip Sweet
Vice-President Manufacturing

Michael Bagwell
Plant Manager

Schaeffler Group USA, Inc.
New York, New York 10022
August 30, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade
House Committee on Ways and Means
United States House of Representatives
1236 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

This letter is written on behalf of the Schaeffler Group USA, Inc., headquartered in Fort Mill, South Carolina, in response to the Subcommittee on Trade's solicitation of written comments to the record from interested parties concerning technical corrections to U.S. trade laws and potential inclusion of pending bills in the miscellaneous trade package. We hereby strongly urge the Subcommittee to include in any miscellaneous trade bill H.R. 1121, to repeal § 754 of the Tariff Act of 1930, 19 U.S.C. § 1675c, the Continued Dumping and Subsidies Offset Act of 2000 ("CDSOA" or "Byrd amendment"). The Schaeffler Group USA, Inc. employs over 4,000 people in this country, and manufactures bearings, engine components, clutches and torque converters from facilities located in South Carolina, Connecticut, Ohio and Missouri.

I. Introduction

The CDSOA is a blatant and illegal subsidy awarded to a very select group of American companies. While the law clearly benefits the chosen few, its effect is overwhelmingly negative for most international and domestic companies alike, to say nothing of the consuming public. Moreover, by ignoring the World Trade Organization ("WTO") ruling that the law is illegal, the U.S. government is undermining the rule of law and U.S. interests here and abroad. It is therefore essential that H.R. 1121, which would repeal the Byrd amendment, be included in the miscellaneous trade bill and, ultimately, be enacted into law.

II. Background

In October 2000, the Congress enacted the CDSOA as part of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2001.[1] The CDSOA was inserted into the Act without being reviewed by any committee having jurisdiction over trade matters in either the House or the Senate. President Clinton signed the bill on October 28, 2000, but protested the inclusion of the CDSOA provision, recognizing that it violated U.S. international trade obligations. The Byrd amendment has been highly controversial since it was signed into law, and it is generally agreed that it would not have withstood Congressional scrutiny had it been considered and evaluated as separate legislation.

The CDSOA revised the long-standing practice in the United States whereby customs duties received from the importation of merchandise covered by an antidumping or countervailing duty order are paid into and remain a part of the United

[1] Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2001, Pub. L. No. 106–387, 114 Stat. 1549 (2000).

States Treasury. Under the CDSOA, the domestic producers that filed and/or supported the original antidumping or countervailing duty petitions are instead paid those monies collected after U.S. Customs and Border Protection deposits them in the U.S. Treasury's Offset Account. The CDSOA has resulted in more than $1 billion in antidumping and countervailing duties dispersed by Customs to affected domestic producers through 2004.[2] More than half the Byrd amendment payments in 2004 went to only nine companies, and more than 80 percent of the payments went to only 44 companies.[3]

On January 9, 2001, nine members of the WTO—Australia, Brazil, Chile, the European Community, India, Indonesia, Japan, Korea, and Thailand—requested consultations with the United States to contest the legality of the Byrd amendment.[4] Failure to resolve the dispute during consultations led to the establishment of a Dispute Settlement Body ("DSB").

Joined by Canada and Mexico, the complaining parties argued that the CDSOA violated the GATT, the Antidumping Agreement ("AD Agreement"), and the Subsidies and Countervailing Measures Agreement ("SCM Agreement").[5] After due consideration, the DSB held that the CDSOA was inconsistent with articles 5.4, 18.1, and 18.4 of the AD Agreement; articles 11.4, 32.1, and 32.5 of the SCM Agreement; articles VI:2 and VI:3 of the GATT 1994; and article XVI:4 of the WTO Agreement.[6] The panel therefore ordered the United States to conform the CDSOA to these international agreements.[7]

On October 22, 2002, the United States appealed the DSB's decision to the Appellate Body for subsequent review, arguing that the CDSOA was a permissible, specific relief action against dumping or subsidization, and was thus consistent with article 18.1 of the AD Agreement and Article 32.1 of the SCM Agreement.[8] In a January 16, 2003 report, the Appellate Body affirmed the DSB's determination that the CDSOA violated the United States' international obligations.[9]

The DSB adopted the report of the panel as modified by the Appellate Body on January 27, 2003.[10] The deadline for the United States to conform the CDSOA to WTO principles expired on December 27, 2003.[11] After failing to do so, eight member nations in January 2004 petitioned the DSB to allow retaliation.[12] In August of that year, the arbitrator decided that retaliatory sanctions could be applied equivalent to seventy-two percent of the disbursements made under the CDSOA.[13]

III. The CDSOA is illegal

The first reason the CDSOA should be repealed is because it is illegal. As explained above, the DSB has determined that the law is inconsistent with WTO requirements. While a WTO decision is not binding on a member state, the United States is undermining its role as an international leader by continuing to ignore the WTO's ruling.

A fundamental principle of the global economy is that no national entity has the ability to function independent of others. The influence that national economies have on each other elicits the need for an international trading framework. The GATT system was founded upon rules of non-discrimination, trade liberalization, fair competition, and sovereignty.[14] The WTO, in incorporating the provisions of GATT and its amendments, functions as "reciprocally and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to

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[2] http://www.citac.info/press/release/2005/08_01.php

[3] http://www.citac.info/press/release/2005/08_01.php

[4] Request for Consultations, WT/DS217/1 (Jan. 9, 2001), available at http://wto.org.

[5] Report of the Panel—Continued Dumping and Subsidy Offset Act of 2000, WT/DS217/R, P1.4 (Sept. 16, 2002), available at http://www.wto.org/english/tratop_e/dispu_e/217_234r_a_e.pdf [hereinafter Panel Report].

[6] *See id.* at 8.1.

[7] *See id.* at 8.4–8.6

[8] *See* WTO Report of the Appellate Body—Continued Dumping and Subsidy Offset Act of 2000, WT/DS217/AB/R, WT/DS234/AB/R (Jan. 16, 2003).

[9] *See id.*

[10] Decision by the Arbitrator, United States—Continued Dumping and Subsidy Offset Act of 2000: Recourse to Arbitration by the United States Under Article 22.6 of the DSU, ST/DS217/ARB (Aug. 31, 2004).

[11] *See id.*

[12] *See id.*

[13] *See id.* at 5.2.

[14] *See* General Agreement on Tariffs and Trade, pmbl., Oct. 30, 1947, 61 Stat. A–11, T.I.A.S. 1700, 55 U.N.T.S. 194.

trade and to the elimination of discriminatory treatment in international trade relations." [15]

The WTO refined specific provisions of the GATT with respect to antidumping procedures in the Agreement on Implementation of Article VI in order to further harmonize the international trade system. The effort to preserve fairness is an essential element of the Agreement.[16] The United States, by not complying with the WTO decision, is abandoning the principles of international trade which it successfully advocated over the past half century.

VI. The CDSOA is bad for the global economy

The Byrd amendment is fundamentally unfair to global competitors. The CDSOA encourage U.S. producers to file and support trade actions knowing they will be eligible for subsidies under the CDSOA if they do so. There is also a legitimate fear that the United States' decision to ignore the WTO ruling will lead to a domino effect, with other countries adopting protectionist measures and ignoring any subsequent WTO decisions.[17] To the extent other countries adopt comparable policies, not repealing this law may lead to further interference in the ability of U.S. exporters to compete in the global trading system.

V. The CDSOA is bad for the U.S. economy

The CDSOA should be repealed because it is likewise detrimental to the economic welfare of the United States. It provides for the annual payment of a significant unearned subsidy to a very few companies that, far from assisting American manufacturing, actually undermines it.[18] The CDSOA harms more American companies than it helps. It has a double impact on American manufacturers who use products subject to antidumping and countervailing duties. The imposition of dumping or countervailing duties on imported products is designed to equalize the so-called competitive advantage those products enjoy over comparable products produced here. This is the basic economic rationale that underlies the antidumping and countervailing duty laws. American importers pay these duties. By transferring these payments to other U.S. competitors, the equalization factor is eliminated, and a distinct competitive advantage is shifted to those other competitors. This is not what the trade laws are designed to do.

For U.S. companies within the field of a subject antidumping case, the CDSOA also encourages inefficient production. Domestic firms that have ceased producing the subject merchandise now have an incentive to resume production and receive the distribution. Under the law, a firm can receive distributions only if it is in the business of producing the good in question. That a company ceased production after the duty was imposed suggests that it was not as competitive a producer as the other firms in the market. A firm that returns to production, therefore, may inefficiently employ capital, labor, land, and other resources that would be more productively employed in producing another good or service.[19]

Firms that have not ceased production, on the other hand, are encouraged by the CDSOA to increase their output beyond the levels signaled by market incentives. The Byrd amendment stipulates that "[t]he distributions shall be made on a pro rata basis based on new and remaining qualifying expenditures," where qualifying expenditures consist of expenditures on manufacturing facilities, equipment, research and development, and just about anything else. Many of these expenditures vary with the scale of production. The effect of the CDSOA is to subsidize the perceived cost of production by domestic firms.[20] This affects not only the companies involved in the dumping case. Such firms increase their output beyond the point where the unsubsidized cost to the firm, and thus to the economy, is balanced by the price. Since the price or value is less than the cost to the economy of that additional output, the economic welfare of the country is reduced.[21] The overall net effect of the distributions mandated by the CDSOA is to cause the firms receiving the distributions to produce output at greater cost than it is worth, and to cause domes-

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[15] GATT, pmbl.

[16] This is evidenced by the fact that duties "shall remain in force only as long as and to the extent necessary to counteract dumping which is causing injury." Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, §2.1 (1994), available at http://www.wto.org/english/docs_e/legal_e/19-adp.pdf.

[17] Charkravarthi Raghavan, Three Disputes Sent to Panel, Third World Network (July 24, 2001), at http://www.twnside.org.sg/title/disputes/htm.

[18] http://www.citac.info/press/release/2005/08_01.php

[19] Office of Management and Budget, Economic Analysis of the Continued Dumping and Subsidy Offset Act of 2000, (Mar. 2, 2004).

[20] *See id.*

[21] *See id.*

tic firms that do not receive the distributions to restrict output that would be worth more than the cost of production. As a consequence, U.S. gross domestic product and gross national product decline.[22]

The CDSOA also significantly increases transaction costs. The resources necessary to pursue a successful antidumping or countervailing duty claim (i.e., costs of lawyers, economists, and lobbyists) are transaction costs that add to the social cost of the laws. By increasing the incentives for firms to file and pursue antidumping petitions and by adding similar costs associated with implementing the distribution of duty revenues, the CDSOA increases those social costs.

Moreover, by increasing the likelihood of cases being filed and/or maintained, the law increases the burden on the federal government. These cases must be administered by the International Trade Commission and the Department of Commerce, consuming time and resources. At the same time, the CDSOA funnels money collected from the imposition of duties from government coffers to the few companies that petition for those duties. Such funneling has totaled more than $1 billion to date, with billions more waiting in the wings. Taking money from the federal government, especially at a time of huge budget deficits, to give it to a tiny segment of U.S. industry that is not entitled to it consonant with our country's international trading obligations, is hardly sound fiscal policy. The actual cost of the provision is stated directly by the Adminstration's FY2004 budget proposal:

The budget also proposes to repeal a Treasury-administered provision in the 2001 Agriculture Appropriations Act, the Continued Dumping and Subsidy Offset Act of 2000, that annually pays approximately $230 million to complainants in antidumping/countervailing-duty cases. These corporate subsidies effectively provide a significant "double-dip" benefit to industries that already gain protection from the increased import prices provided by countervailing tariffs. While the Administration does not believe that these payments are inconsistent with U.S. treaty obligations, repeal of the provision would allow the funds to be directed to higher priority uses.

Accordingly, not only would repeal of the CDSOA not cost the Government anything, it would actually result in a net annual Governmental benefit of approximately $230 Million.

VI. U.S. Exporters are now exposed to WTO-sanctioned retaliation by trading partners

Not only is the CDSOA, in itself, bad for the U.S. economy, but now other countries are in the process of retaliating against the United States for not adhering to the WTO ruling. Starting September 1, 2005, Japan will impose a 15% duty on steel imports from the U.S., targeting products such as ball bearings (which our company produces in the U.S.) and airplane parts (which one of our related companies also manufactures here). These additional tariffs could amount to as much as $51 million. Japan's action follows the European Union's and Canada's decision to impose retaliatory duties on U.S.-made goods, which began on May 1, 2005. The EU imposed a 15% duty on various types of paper, clothing fabrics, footwear, and machinery—amounting to tariffs worth approximately $28 million, and Canada imposed like duties on cigarettes, oysters and live swine, worth about $14 million. On August 18, 2005, Mexico began imposing tariffs of 30% on dairy blends, 20% on wine, and 9% on chewing gum and candy manufactured in the U.S.

VII. Conclusion

As detailed above, the CDSOA must be repealed. The World Trade Organization has ruled that it is illegal. By ignoring the WTO's ruling, the U.S. government is compromising the rule of law, as well as U.S. interests and American standing in global trade negotiations. Not only is the law illegal and unfair to both international and domestic companies, the law is economically unsound, resulting in immediate and significant damage to the world and U.S. economies. Its continued application is also exposing U.S. exporters to WTO-sanctioned retaliation by trading partners. For these reasons, the Schaeffler Group USA, Inc. urges that H.R. 1121 be included in the miscellaneous trade package, and that it be repealed immediately.

Thank you for considering these comments.

Max F. Schutzman
Special Counsel to the Schaeffler Group USA, Inc.

[22] *See id.*

Seaman Paper Company of Massachusetts, Inc.
Baldwinville, Massachusetts 01436
August 30, 2005

I am writing on behalf of our 500 employees to voice strong opposition to HR 1121 in the Miscellaneous Tariff Bill calling for the repeal of the continued Dumping and Subsidy Offset Act of 2000 (CDSOA).

Seaman Paper Company is a family owned 57-year-old paper mill with local converting plants. Our products include tissue paper used to wrap customer purchases, packages of tissue paper sold for resale for at-home gift wrapping, crepe streamers and other lightweight specialty tissue paper grades. We employ over 500 people in the Massachusetts towns of Otter River, Gardner and Orange. We are one of the largest employers in our area, which has a rich history of high-quality manufacturing.

China started entering our markets about 7 years ago, and by 2003 Chinese imports were 24 percent of the market and growing exponentially. Indeed, by mid 2004, our crepe streamer plant had lost over 75 percent of its business to Chinese imports.

In February 2004 our domestic industry filed an antidumping lawsuit as a final, desperate measure to stop the flood of unfairly priced Chinese imports. In December 2004 the Department of Commerce imposed duties of 266 percent on all imports of Chinese crepe streamers and in February 2005 they imposed duties of 112 percent on all imports of Chinese tissue paper products. Despite this, the Chinese are currently attempting to circumvent the antidumping order by shipping product through Vietnam.

The Chinese episode has hurt us in many ways. First, the artificially low Chinese prices have depressed prices in our markets and have forced us to reduce our profits or even sell products at a loss. Second, we have had to bear the substantial costs of bringing and defending the antidumping proceedings. Third, in the two year period that we were planning and awaiting the results of those proceedings, we could not justify or properly fund capital investments and so must now catch up for two lost years. Because of artificially low Chinese prices and the injury they have caused us, we have not been able to generate the internal funds to support these investments and so must look to outside sources. Finally, we have been burdened with ongoing legal expenses to support the antidumping duty orders and to address continuing circumvention issues. These expenses will be necessary until Congress and the Administration address problems with the enforcement of antidumping duty orders, the continuing Chinese currency manipulation, and subsidies which create such strong economic incentive to buy Chinese goods.

Over the past five years, and notwithstanding the incredible pressure and injury caused by unfairly traded imports, we have worked to install state-of-the-art equipment to try to compete with Chinese exports. While we did not file our antidumping duty case in anticipation of receiving distributions under the Byrd Amendment—far from it—the availability of distributions would greatly assist us to make critical investments that we were unable to make while facing an onslaught of unfairly priced Chinese imports. We need to generate the capital to continue buying these converting lines, and the funds from CDSOA would be critical in achieving that goal.

Thank you for considering our comments, and we would be pleased to answer any questions.

George Davenport Jones III

Statement of Joseph Dwight Hikel, Shelter Systems Limited, Westminster, Maryland

The "Continued Dumping and Subsidy Offset Act of 2000," often called the "Byrd Amendment," allows for the distribution of CVD/AD deposits to affected U.S. producers who originally petition for trade remedies that result in the imposition of such duties. I am writing in support of H.R. 1121, and a repeal of this "Byrd Amendment."

My company produces structural building components—metal-plate connected wood trusses, wall panels and open-web floor joists—which are made primarily of softwood lumber and light gauge, galvanized steel connector plates. Our products are used mainly in residential homes across the country, as well as multi-family dwellings and light-commercial and agricultural buildings.

According to the International Trade Commission (ITC), 36% of the softwood lumber used in the U.S. comes from Canada. Based on our industry financial performance statistics, combined with a study done by the ITC, the structural building component industry's annual steel purchases are approximately 475,000 tons of steel in truss plates and an additional 130,000 tons in connectors.

Hence, my company's competitiveness and profitability are directly harmed by the protectionist trade remedies encouraged and exacerbated through the Byrd Amendment. Please allow me to offer the following observations:

Byrd Creates Perverse Incentive:

The Byrd Amendment is bad policy because it essentially creates a double benefit for targeted companies: first, through an increase in prices due to a tariff-induced reduced supply; and second, through the distribution of tariff dollars to the petitioning companies that already gain the benefit from the increase in prices.

As a consequence, the Byrd Amendment has simply encouraged additional U.S. companies to file more protectionist trade suits to reap the benefits of a direct payment from their marketplace competitors.

Byrd Encourages Protectionist Trade:

According to the World Trade Organization, as recently as 1997 only 15 antidumping cases were filed in the U.S., and only nine in the entire first half of 2000. But since the Byrd Amendment took effect, the numbers have climbed to 76 in 2001, 35 in 2002, and 37 in 2003.

Forty-four U.S. companies have each collected at least $1 million through the Byrd Amendment in 2004, and total assessed duties were over $284.1 million. From 2001 through 2004, U.S. Companies have benefited from more than $1.04 billion through this protectionist trade law.

Byrd Makes My Problems Worse:

First, as stated earlier, the Byrd Amendment encourages the filing of CVD/AD trade remedy cases. These trade tariffs artificially raise the cost of my raw materials, like softwood lumber and steel, which also leads to unnecessary uncertainty or restriction of supply.

Second, the Byrd Amendment makes it possible for nearly $4 billion in CVD/AD duties collected on the importation of Canadian softwood lumber to be distributed to U.S. petitioning companies. However, U.S. petitioning companies account for only 54 percent of U.S. softwood lumber production. This provides an unfair competitive advantage to these petitioning companies.

Third, the possibility of distribution created by the Byrd Amendment of this nearly $4 billion in CVD/AD duties makes a negotiated settlement of the softwood lumber dispute between the U.S. and Canada nearly impossible.

Byrd Unfair, Passed Unfairly:

The Byrd Amendment was passed as an add-on to a last minute appropriations bill, without consideration by the appropriate committees of Congress.

The Byrd Amendment creates harm to consuming industries like mine, and yet I have no ability to participate meaningfully in the trade cases the Byrd Amendment encourages. Repeal of the Byrd Amendment is an essential step in allowing consuming industries an opportunity to protect our trade interests.

Byrd Harms International Trade:

The WTO ruled the Byrd Amendment illegal two years ago, and in November 2004 it gave formal approval for Canada, Japan, the EU and four other jurisdictions to retaliate against the U.S. for refusing to amend or rescind the Byrd Amendment.

In March 2005, the Canadian government announced it would impose a punitive 15 percent duty, equaling $11.6 million annually, on targeted goods including oysters, live swine, specialty fish and cigarettes imported from the U.S. The EU announced similar punitive tariffs as well on paper, agricultural, textile and machinery products imported from the U.S.

Thank you for allowing me to provide my comments on H.R. 1121, please feel free to contact me if you have any questions or need for further information.

Sioux Honey Association
Sioux City, Iowa 51101
August 24, 2005

To: House Ways and Means Committee

Our Company, Sioux Honey Association, Cooperative, is an agricultural cooperative founded in 1921 by five beekeepers who lived near Sioux City,Iowa, by pooling together $200.00 and 3,000 pounds of honey as an experimental marketing project. The Association's corporate office is in Sioux City, Iowa with branch plants in Anaheim, California and Waycross, Georgia and employs 82 employees. The cooperative is owned and operated by its' 307 Member beekeepers from 24 States and this accounts for 20% of the domestic honey crop and 15% of the honey sold in the U.S.

The 307 beekeepers that are Members of the Association are a critical resource to the nation's food industry. These Members are the largest organized group of beekeepers in the U.S. impacting agriculture. Honeybees do 80% of the pollinating for one-third of the human diet that is derived from insect-pollinated plants. Pollination by honeybees also affects over 100 crops nationwide with a combined annual value of $10 billion, according to the U.S. Department of Agriculture.

Sioux Honey Association strongly opposes H.R. 1121 in the Miscellaneous Tariff Bill ("MTB") calling for the repeal of the CDSOA. The Association also strongly opposes H.R. 2473 (also contained in the MTB) which alters the calculations of the "all others" rate in AD/CVD cases, which would significantly reduce the amount of duties collected and distributed under CDSOA.

CDSOA has worked well for U.S. companies and their workers. CDSOA simply transfers the Customs duty assessed on foreign competitors for violations of U.S. trade laws directly to the U.S. companies that face this unfair and persistent foreign competition. These funds are only for continued illegal acts no duties are accessed and available to injured parties unless a competitor continues to violate our laws. Our Members have benefited from CDSOA by being able to continue to invest in their facilities and workers, preserving U.S. jobs, and their family businesses.

Our expectations are that Congress will actively support manufacturing jobs in the U.S. by opposing the repeal of the CDSOA and by supporting the U.S. government's sovereign right to distribute taxes as determined by Congress by fighting efforts to undermine the CDSOA in the World Trade Organization. Congress has called for our trade negotiators in the ongoing Doha Round to push for revision of the WTO agreements so that CDSOA and similar programs relating to individual countries' use of the AD/CVD duties they collect will be expressly accepted as WTO consistent. This is the way to resolve the WTO dispute that is the basis for calls to repeal the Byrd Amendment.

David Allibone
President, CEO

Statement of Deborah Long, Southern Shrimp Alliance

This statement reflects the views of the Southern Shrimp Alliance ("SSA"), a nonprofit alliance of shrimp fishermen and processors in eight states committed to preventing the continued deterioration of America's domestic shrimp industry and to ensuring the industry's future viability. SSA serves as the national voice for members of the shrimp industry in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas. We appreciate the opportunity to submit this statement in anticipation of the Subcommittee's review of the proposed technical corrections to U.S. trade laws and miscellaneous duty suspension proposals.

The SSA opposes the inclusion of H.R. 1121—a bill to repeal section 754 of the Tariff Act of 1930, also known as the Continued Dumping and Subsidy Offset Act ("CDSOA")—in the technical corrections and duty suspension bill package.

The once-vibrant U.S. shrimp industry has been crippled by unfair trade by foreign exporters of shrimp. Wholesale prices for American shrimp have plummeted as the amount of unfairly traded imports has increased dramatically. The Department of Commerce and the International Trade Commission, in their roles of enforcing the U.S. trade laws, have recognized that such shrimp imports are being dumped in the U.S. market causing injury to the domestic shrimp industry. For example, the International Trade Commission ("ITC") and the Commerce Department have imposed antidumping duties as high as 112% on certain shrimp imports from China. No American industry can be expected to compete with such flagrant violations of the trade laws.

Despite the relief provided, many in the industry, teetering on bankruptcy, are being forced to consider closing their family businesses and laying-off employees. Between 2000 and the first half of 2004, the time of the injury determination, imports from the major shrimp exporting nations surged 71% as prices paid for shrimp plummeted 39%. If the shrimping industry cannot withstand the economic pressures caused by foreign unfair trade, hundreds of communities will be left without their traditional economic base. In fact, some have already succumbed to the economic hardship and closed their doors.

An essential element of the relief provided to this devastated industry is available under CDSOA. CDSOA provides that the duties collected may be distributed to the domestic producers who have been injured by the continued violation of U.S. trade laws. Distributions are made to those producers who continue to invest in their industry for specified qualifying expenditures such as acquisition of technology and environmental equipment, and then only up to the amount of those investments. These distributions help offset the harm caused by the unfair trade and encourage domestic industries to continue to make the investments necessary to recover from such injury. CDSOA only applies when foreign producers *continue* to violate U.S. trade laws after there have been findings against them by both the U.S. Department of Commerce and the U.S. International Trade Commission. If the exporters stop dumping, funds will no longer be available for distribution under CDSOA.

Funds could be distributed pursuant to CDSOA to a shrimp fisherman who paid to replace engines or buy new nets. Funds could be distributed to a shrimp processor who paid to replace and upgrade essential sorting, peeling, and other processing machinery. This reinvestment will help ensure the survival of the American shrimp industry, the preservation of thousand of jobs and the vibrancy of many coastal communities.

American shrimp fishermen and processors are suffering as a result of unfair imports of foreign shrimp. CDSOA is a vital component of the U.S. trade law regime Congress has designed to level the playing field for U.S. industry. It should not be repealed in the technical corrections and duty suspension bill package or, indeed, in any other legislation approved by Congress.

Statement of Jack W. Shilling, Specialty Steel Industry of North America

The Specialty Steel Industry of North America ("SSINA"), a trade association whose membership includes fifteen U.S. companies engaged in the manufacture and distribution of specialty metals—including stainless steels, superalloys and other nickel alloys, and a variety of other sophisticated, high-value alloys—submits these comments in strong opposition to H.R. 1121, a bill to repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA" or "the Byrd Amendment"). H.R. 1121 is designed to bring U.S. law into conformity with the January 16, 2003 decision of the WTO Appellate Body finding the CDSOA to be a nonpermissible "specific action against" dumping or subsidization. As discussed below, SSINA believes that the Appellate Body's decision is erroneous, and points up the need for fundamental changes in the WTO Antidumping and SCM Agreements. Congress and the Administration should not be considering repeal of the CDSOA—even in the face of retaliation by the European Union, Japan, and the other complainants in the WTO case—but should instead be pressing for negotiations in the Doha Round of multilateral trade negotiations aimed at achieving recognition that the CDSOA and similar fiscal legislation fall outside the proper scope of WTO jurisdiction.

Several of SSINA's members are among the companies whose exports will be affected by Japan's recent announcement that it will impose 15 percent retaliatory duties on certain U.S. products, including several types of specialty steel, effective on September 1, 2005. On the other hand, SSINA members have also been among the largest beneficiaries of the Byrd Amendment since its passage in 2000. While we obviously do not take the potential loss of our export markets lightly, there is no question that our companies and the United States as a whole will be better off suffering the loss of some export sales if it means preserving the effectiveness of the U.S. antidumping and countervailing duty laws. And in our estimation, continuation of the Byrd Amendment in its current form is essential to preserving the remedial effect of these critical trade laws.

In its January 16, 2003 decision, the WTO Appellate Body found that the CDSOA was inconsistent with U.S. obligations under Articles 18.1 and 32.1 of the Antidumping and SCM Agreements, respectively. Specifically, the Appellate Body found that Articles 18.1 and 32.1 permit only four types of "specific action against" dumping or subsidization: (1) duties, (2) provisional measures, (3) price undertakings, and, in the case of subsidies, (4) countermeasures. The Appellate Body concluded that CDSOA distributions to domestic producers are "specific action against" dump-

ing or subsidization because: (1) they are implicitly linked to antidumping or countervailing duty determinations because they can be made *only* following those determinations, and (2) the program is designed or structured to discourage the practice of dumping or subsidization by transferring antidumping and countervailing duties collected on imports to domestic competitors. Because CDSOA distributions are not among the four types of "specific action" permitted by the agreements, the Appellate Body found that the CDSOA is inconsistent with U.S. obligations under Articles 18.1 and 32.1.

The Appellate Body's ruling is erroneous in a number of respects. Most importantly, it represents yet another example of the WTO creating and imposing new obligations on its members that were never agreed to in the organic agreements. Nothing in the Antidumping and SCM Agreements speaks to how WTO members may use antidumping and countervailing duties once they have been paid. Nor is there logic in the Appellate Body's finding that a payment program becomes "specific action against dumping or subsidization" simply because the funding mechanism for the payments is moneys lawfully collected by the United States from trade cases. While the Appellate Body appeared to suggest that the CDSOA is a subsidy of some sort, the WTO Panel expressly found that the transfer of duties to affected domestic producers was not a prohibited or actionable subsidy under the SCM Agreement. The United States and all countries retain the sovereign right to spend money as they choose where such payments are not actionable subsidies under the SCM Agreement.

Something is dreadfully wrong with the WTO when its Appellate Body can read its Antidumping and SCM Agreements as giving protected status to ongoing dumping and subsidization—the very unfair trade practices prohibited by both those agreements and the predecessor GATT codes—while finding violative of those agreements an internal fiscal measure that is concededly not an actionable subsidy. Moreover, for all the criticism it has received, it should be borne in mind that the CDSOA is, after all, the *Continued* Dumping and Subsidy Offset Act, and only operates to refund duties to affected domestic producers to the extent that dumping and subsidization continue after issuance of an antidumping or countervailing duty order. If foreign producers react to the issuance of the order by ceasing dumping or renouncing subsidies, U.S. affected domestic producers get nothing. The statute does not impose sanctions against dumping or subsidization any greater than those permitted under the Antidumping and SCM Agreements; the Byrd Amendment did not raise the amount of antidumping and countervailing duties permissible under U.S. law and the Antidumping and SCM Agreements. It simply applies the duties collected in a manner designed to remedy the ongoing injury caused by the continuation of unfair trade practices. Nothing in the WTO agreements prohibits the United States or any other country from taking action to respond to injury (or the effects of dumping or subsidization), as distinct from actions responding to the unfair trade practices themselves.

Because of these fundamental defects in the Appellate Body's decision, it is more than understandable that Congress did not move to amend or repeal the Byrd Amendment by the December 27, 2003 deadline originally established for compliance. In the Trade Act of 2002, Congress directed the Administration to start a process in the Doha Round of negotiations to address the problem of "overreaching" by WTO Panels and the Appellate Body, particularly in the antidumping and countervailing duty area. The Appellate Body decision finding the CDSOA to be in violation of commitments nowhere expressly contained in the Antidumping and SCM Agreements is only the latest example of such overreaching. Rather than capitulate to this illegitimate attempt to limit U.S. sovereignty, the United States should press for negotiations during the Doha talks specifically aimed at amending the relevant agreements to make clear that the Byrd Amendment and similar internal fiscal measures are not prohibited "specific actions against" dumping and subsidization. As exporters themselves, SSINA's members do not fear the adoption by other countries of internal legislation modeled on the CDSOA. To the contrary, SSINA believes that this would be a positive development that would improve the effectiveness throughout the world of long-accepted disciplines aimed at discouraging dumping and subsidization of exports. The United States and the world trading system would only be better for it.

For these reasons, SSINA respectfully urges the Committee to report H.R. 1121 unfavorably.

Stewart and Stewart
Washington, DC 20037
September 1, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

The following comments are submitted in response to Advisory No. TR–3, dated July 29, 2005, in which the Subcommittee on Trade requested "written comments for the record from all parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals," and "public comment on those bills listed" in the advisory.

Two of the bills listed in the advisory are of particular concern: H.R. 1121, "A bill to repeal section 754 of the Tariff Act of 1930," and H.R. 2473, "A bill to amend the Tariff Act of 1930 relating to determining the all-others rate in antidumping cases." These bills are unsuitable for inclusion in the miscellaneous trade bill. As explained further below, each bill attempts to implement controversial adverse WTO decisions, each would weaken U.S. trade remedy laws, and each would attract significant controversy. In addition, H.R. 2473 would likely not be administrable by the Commerce Department. Hence, H.R. 1121 and H.R. 2473 do not meet the criteria for bills that have historically been part of the non-controversial miscellaneous trade package.

Controversial Adverse WTO Decisions That Have Been Criticized by Congress and the Administration Should Not Be Implemented Using the Miscellaneous Trade Bill

It is evident that H.R. 1121 and H.R. 2473 seek to implement decisions of World Trade Organization ("WTO") panels and the Appellate Body in disputes that were decided adversely to the interests of the United States.[1] However, the miscellaneous trade bill should not be used to amend major U.S. trade laws to implement controversial WTO panel or Appellate Body reports. This is at odds with the stated and historical purpose of such non-controversial legislation.

Furthermore, in the Trade Act of 2002, Congress noted its growing apprehension about WTO dispute settlement proceedings:

> (A) the recent pattern of decisions by dispute settlement panels of the WTO and the Appellate Body to impose obligations and restrictions on the use of antidumping, countervailing, and safeguard measures by WTO members under the Antidumping Agreement, the Agreement on Subsidies and Countervailing Measures, and the Agreement on Safeguards has raised concern; and
>
> (B) the Congress is concerned that dispute settlement panels of the WTO and the Appellate Body appropriately apply the standard of review contained in Article 17.6 of the Antidumping Agreement, to provide deference to a permissible interpretation by a WTO member of provisions of that Agreement, and to the evaluation by a WTO member of the facts where that evaluation is unbiased and objective and the establishment of the facts is proper.[2]

In light of its misgivings, Congress called on the Administration to prepare a "report setting forth the strategy of the executive branch to address concerns of the Congress regarding whether dispute settlement panels and the Appellate Body of the WTO have added to obligations, or diminished rights, of the United States."[3] In the report it transmitted to Congress, the Administration was likewise critical of WTO dispute settlement, stating that:

> the United States does not agree with the approach that WTO panels and the Appellate Body have sometimes taken in disputes, and is concerned about the potential systemic implications. In particular, the executive branch views with

[1] Specifically, *United States—Continued Dumping and Subsidy Offset Act of 2002,* DS217, DS234 (adopted on January 27, 2003), and *United States—Anti-dumping Measures on Certain Hot-Rolled Steel Products from Japan,* DS184 (adopted on August 23, 2001).

[2] 19 U.S.C. § 3801(b)(3).

> concern the manner in which WTO panels and the Appellate Body have applied the applicable standard of review in disputes involving U.S. trade remedy and safeguard matters, and instances in which they have found obligations and restrictions on WTO Members concerning trade remedies and safeguards that are not supported by the texts of the WTO agreements. . . .[4]

The Administration has identified the disputes concerning the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA") and the "all-others" rate, among others, as particular instances wherein obligations that have no textual basis in the WTO Agreements were created and imposed on the United States by WTO panels and the Appellate Body. About CDSOA, the Administration has stated that:

> The Appellate Body . . . created a new category of prohibited subsidies that ha[s] neither been negotiated nor agreed to by WTO Members.[5]

With respect to the "all-others" rate decision in the Hot-Rolled Steel dispute, the Administration has pointed out that:

> the Anti-Dumping Agreement [does] not explicitly require that margins containing any amount of "facts available" be excluded from the "all others" calculation: it [is] silent as to the amount of "facts available" that trigger[] exclusion. Given that the Anti-Dumping Agreement [is] ambiguous on the degree of "facts available" which require[] exclusion, Article 17.6 required that permissible interpretations such as that of the United States be accepted. Further, the Appellate Body—resolved the ambiguity in a way that did not foster predictability in the calculation of the "all others" rate and that did not fully take into account the practical side of calculating an "all others" rate.[6] [7]

The miscellaneous trade bill should not be used to implement these or any other instances of overreaching by WTO panels and the Appellate Body.

In fact, implementation of these decisions through the enactment of H.R. 1121 and H.R. 2473 would contravene previous expressions of Congressional intent. The Trade Act of 2002 called for a "comprehensive strategy for correcting instances in which dispute settlement panels and the Appellate Body have added to obligations or diminished rights of the United States."[8] Even more explicitly, with respect to CDSOA, in the Consolidated Appropriations Acts of 2004 and 2005, Congress directed "[t]hat negotiations shall be conducted within the World Trade Organization to recognize the right of members to distribute monies collected from antidumping and countervailing duties."[9] The negotiations called for by Congress are ongoing in the context of the WTO Doha Round on both of these issues. Those negotiations should be allowed to run their course to see if the problems created by panel and Appellate Body overreaching can be corrected. Enactment of H.R. 1121 and H.R. 2473 would undercut the possibility of the negotiated resolution envisioned by Congress.

The Miscellaneous Trade Bill Should Not Weaken U.S. Trade Remedy Laws

There has been broad, consistent, and longstanding support for the trade remedy laws in Congress. Strong and effective trade remedy laws are key to ensuring a level playing field for U.S. manufacturers, farmers, ranchers, and workers, and for maintaining public support for further trade liberalization. Consistent with these principles, Congress declared in the Trade Act of 2002 that:

The principal negotiating objectives of the United States with respect to trade remedy laws are—

> (A) to preserve the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws, and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies, or that lessen the effectiveness of domestic and international safeguard provisions, in order to ensure that United States workers, agricultural producers, and firms

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[4] Executive Branch Strategy Regarding WTO Dispute Settlement Panels and the Appellate Body—Report to the Congress Transmitted by the Secretary of Commerce, at 7 (Dec. 31, 2001).

[5] Dispute Settlement Body, Minutes of Meeting, Held in the Centre William Rappard on 27 January 2003, WT/DSB/M/142, at para. 55 (March 6, 2003).

[6] Dispute Settlement Body, Minutes of Meeting, Held in the Centre William Rappard on 23 August 2001, WT/DSB/M/108, at para. 73 (October 2, 2001).

[7] The Senate Report on the Trade Act of 2002 also specifically identified the *Hot-Rolled Steel* dispute as being among the disputes in the "recent pattern" about which Congress was concerned. S. Rep. 107–139, at 54 (2002).

[8] S. Rep. 107–139, at 55 (2002).

can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions; and

(B) to address and remedy market distortions that lead to dumping and subsidization, including overcapacity, cartelization, and market-access barriers.[10]

In addition, the Conference Report accompanying the Trade Act of 2002 recognized:

> the importance of preserving the ability of the United States to enforce rigorously its trade remedy laws, including the antidumping, countervailing duty and safeguard laws. Because this issue is significant to many Members of Congress in both the House and Senate, the Conferees have made this priority a principal negotiating objective. Negotiators must also avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, as well as domestic and international safeguard provisions.[11]

The Senate Report likewise noted that "[p]reserving the ability to respond promptly and effectively to unfair trade practices and to harmful import surges is critical to maintaining support in the United States for an open, rules-based trading system." [12] In light of these unambiguous expressions of support for strong trade remedy laws, any bill that would weaken those laws can be expected to attract significant controversy and substantial opposition. The miscellaneous trade bill, which has historically been non-controversial legislation, should not incorporate any bills that would have the effect of weakening U.S. trade remedy laws.

H.R. 1121 Would Weaken U.S. Trade Remedy Laws and Should Not be Part of the Miscellaneous Trade Bill

H.R. 1121 proposes to repeal CDSOA. However, there is wide bi-partisan support among Members of Congress and the public for CDSOA.[13] Any legislation to repeal it would attract substantial controversy and strong opposition. Moreover, CDSOA is an effective program and its repeal would weaken the trade remedy laws.

CDSOA distributes funds to certain domestic parties when industries have been found to be injured by dumped and subsidized imports. The funding for CDSOA comes from duties collected on dumped and subsidized imports where dumping and subsidization continue after AD/CVD measures have been put into place. Where dumping or subsidization ceases as intended, no funds are available to distribute. CDSOA has a wide range of beneficiaries, including companies, farmers, ranchers, and unions, who are eligible to receive distributions for qualifying expenditures on manufacturing facilities; equipment; research and development; personnel training; acquisition of technology; health care benefits; pension benefits; environmental equipment, training, and technology; acquisition of raw materials and other inputs; and working capital or other funds needed to maintain production.

CDSOA does not alter the methodology used by the Commerce Department to calculate dumping/subsidy margins, and CDSOA has no effect on how much duty must be paid on dumped and subsidized imports. CDSOA merely distributes funds pursuant to generally applicable criteria when unfair trade practices do not cease. Additionally, despite concern raised in the press and elsewhere, CDSOA has not created an incentive for U.S. producers to file new antidumping and countervailing duty cases. In fact, as the House Committee on Appropriations recently noted, the number of antidumping and countervailing duty investigations conducted by Commerce has "decreased significantly" in recent years.[14]

CDSOA is an effective program that enjoys broad support, and repealing CDSOA would weaken the trade remedy laws. H.R. 1121 is thus likely to attract significant controversy and should not be included as part of the miscellaneous trade bill.

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[9] Consolidated Appropriations Act, 2004, P.L. 108–199 (Jan. 23, 2004); Consolidated Appropriations Act, 2005, P.L. 108–447 (Dec. 8, 2004).

[10] 19 U.S.C. § 3802(14).

[11] H.R. Rep. 107–624, at 156 (2002).

[12] S. Rep. 107–139, at 54 (2002).

[13] For example, in 2003, following an adverse WTO decision on CDSOA, 70 Senators signed a letter to the President supporting the law. That letter expressed their concern that the Appellate Body had overreached by imposing new obligations on the United States, and it urged the President to seek express recognition of the right of WTO Members to maintain programs like CDSOA.

H.R. 2473 Would Weaken U.S. Trade Remedy Laws and Would Not Be Administrable, So it Should Not be Part of the Miscellaneous Trade Bill

H.R. 2473 proposes to amend the antidumping law by deleting the word "entirely" from subparagraphs (A) and (B) of section 735(c)(5) of the Tariff Act of 1930.[15] This modification would, in many cases, effectively make it impossible for Commerce to calculate an "all-others" dumping margin.

The "all-others" dumping margin is the rate applied to imports from all non-investigated exporters. It is a weighted average of dumping margins calculated for individually investigated exporters. In calculating dumping margins for individually investigated exporters, Commerce may use "facts available" as a substitute for certain company-specific data when a respondent company fails to supply all the data necessary to perform the calculation. Those dumping margins based only partially on facts available are included in the weighted average calculated for the "all-others" rate. Where a dumping margin calculated for an individually investigated exporter is based *entirely* on "facts available," however, that specific margin is currently excluded from the weighted average used for the "all-others" rate. The inclusion of dumping margins *partially* based on "facts available" in the calculation of the "all-others" rate is necessary, as many dumping margins calculated by Commerce are based on at lease some "facts available" data.

H.R. 2473 proposes to prohibit Commerce from calculating the "all-others" rate using any dumping margins based on any amount of "facts available" information. Thus, in many cases, it would be impossible for Commerce to calculate an "all-others" rate, because it would have no usable margins with which to calculate a weighted average. H.R. 2473 would create serious administrative difficulties for Commerce because it provides no alternative means of calculating an "all-others" rate in such cases. Consequently, H.R. 2473 would substantially weaken the antidumping law, it is likely to attract significant controversy, and it would not be administrable. H.R. 2473 is therefore not appropriate for inclusion in the miscellaneous trade bill.

H.R. 1121 and H.R. 2473 Should Not be Included in the Miscellaneous Trade Bill

For the reasons detailed above, H.R. 1121 and H.R. 2473 are both likely to attract significant controversy and strong opposition. In addition, it is unlikely that H.R. 2473 would be administrable by the Commerce Department. Consequently, H.R. 1121 and H.R. 2473 do not meet the established criteria for inclusion in the miscellaneous trade bill. The Subcommittee should exclude H.R. 1121 and H.R. 2473 from consideration as part of the miscellaneous trade bill.

Thank you for taking these comments into account as you debate these important matters.

Respectfully submitted,

Terence P. Stewart

Statement of Christopher Paulhus, Stock Building Supply, Dayton, Ohio

The "Continued Dumping and Subsidy Offset Act of 2000," often called the "Byrd Amendment," allows for the distribution of CVD/AD deposits to affected U.S. producers who originally petition for trade remedies that result in the imposition of such duties. I am writing in support of H.R. 1121, and a repeal of this "Byrd Amendment."

My company produces structural building components—metal-plate connected wood trusses, wall panels and open-web floor joists—which are made primarily of softwood lumber and light gauge, galvanized steel connector plates. Our products are used mainly in residential homes across the country, as well as multi-family dwellings and light-commercial and agricultural buildings.

According to the International Trade Commission (ITC), 36% of the softwood lumber used in the U.S. comes from Canada. Based on our industry financial performance statistics, combined with a study done by the ITC, the structural building component industry's annual steel purchases are approximately 475,000 tons of steel in truss plates and an additional 130,000 tons in connectors.

Hence, my company's competitiveness and profitability are directly harmed by the protectionist trade remedies encouraged and exacerbated through the Byrd Amendment. Please allow me to offer the following observations:

[15] 19 U.S.C. § 1673d(c)(5).

Byrd Creates Perverse Incentive:

The Byrd Amendment is bad policy because it essentially creates a double benefit for targeted companies: first, through an increase in prices due to a tariff-induced reduced supply; and second, through the distribution of tariff dollars to the petitioning companies that already gain the benefit from the increase in prices.

As a consequence, the Byrd Amendment has simply encouraged additional U.S. companies to file more protectionist trade suits to reap the benefits of a direct payment from their marketplace competitors.

Byrd Encourages Protectionist Trade:

According to the World Trade Organization, as recently as 1997 only 15 antidumping cases were filed in the U.S., and only nine in the entire first half of 2000. But since the Byrd Amendment took effect, the numbers have climbed to 76 in 2001, 35 in 2002, and 37 in 2003.

Forty-four U.S. companies have each collected at least $1 million through the Byrd Amendment in 2004, and total assessed duties were over $284.1 million. From 2001 through 2004, U.S. Companies have benefited from more than $1.04 billion through this protectionist trade law.

Byrd Makes My Problems Worse:

First, as stated earlier, the Byrd Amendment encourages the filing of CVD/AD trade remedy cases. These trade tariffs artificially raise the cost of my raw materials, like softwood lumber and steel, which also leads to unnecessary uncertainty or restriction of supply.

Second, the Byrd Amendment makes it possible for nearly $4 billion in CVD/AD duties collected on the importation of Canadian softwood lumber to be distributed to U.S. petitioning companies. However, U.S. petitioning companies account for only 54 percent of U.S. softwood lumber production. This provides an unfair competitive advantage to these petitioning companies.

Third, the possibility of distribution created by the Byrd Amendment of this nearly $4 billion in CVD/AD duties makes a negotiated settlement of the softwood lumber dispute between the U.S. and Canada nearly impossible.

Byrd Unfair, Passed Unfairly:

The Byrd Amendment was passed as an add-on to a last minute appropriations bill, without consideration by the appropriate committees of Congress/

The Byrd Amendment creates harm to consuming industries like mine, and yet I have no ability to participate meaningfully in the trade cases the Byrd Amendment encourages. Repeal of the Byrd Amendment is an essential step in allowing consuming industries an opportunity to protect our trade interests.

Byrd Harms International Trade:

The WTO ruled the Byrd Amendment illegal two years ago, and in November 2004 it gave formal approval for Canada, Japan, the EU and four other jurisdictions to retaliate against the U.S. for refusing to amend or rescind the Byrd Amendment.

In March 2005, the Canadian government announced it would impose a punitive 15 percent duty, equaling $11.6 million annually, on targeted goods including oysters, live swine, specialty fish and cigarettes imported from the U.S. The EU announced similar punitive tariffs as well on paper, agricultural, textile and machinery products imported from the U.S.

Thank you for allowing me to provide my comments on H.R. 1121, please feel free to contact me if you have any questions or need for further information.

Sunny Dell Foods, Inc
Kennett Square, Pennsylvania 19348
August 31, 2005

The Honorable William Thomas
Chairman
Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Dear Chairman Thomas:

I am writing on behalf of my company and its 100 employees to register our strong opposition to HR 1121 in the Miscellaneous Tariff Bill, calling for the repeal of the continued Dumping and Subsidy Offset Act of 2000 (CDSOA).

Sunny Dell Foods Inc. is a family owned and operated company located in south-central Pennsylvania. We process mushrooms and numerous other vegetable products into a wide variety of value-added products. When we first opened our doors we processed only mushrooms. After experiencing first-hand the devastating effects of unfairly traded imports—from Chile, China, India and Indonesia—in 1998 we joined with other members of the domestic industry and invested considerable time and money into bringing and winning four separate antidumping duty cases. We brought those cases, years before the CDSOA was passed, because the relief offered by the trade laws was the last chance we had to defend our industry and preserve our company, our livelihood, and our employees' jobs.

Since winning those cases, we have invested more time and money in defending those orders against numerous instances of circumvention. Through all of this, we have worked to maintain and invest in our business. The continued dumping of imports from all four countries has made it difficult to invest properly to ensure the health and future of my company.

We have been fortunate to be eligible to receive CDSOA distributions in every year since the law went into effect. The amounts that we have received under the CDSOA have been critical in helping us to make fundamental investments that we would not otherwise have been able to make. Each year we reinvest in new and existing equipment to expand our operations and to maximize our efficiency and competitiveness. Among other things, we have invested significantly in building a completely new waste water treatment plant. This investment would have been impossible without the distributions we received, and without the treatment facility, we would have been unable to maintain production.

The current challenges to the CDSOA seek to paint this program as a source of improper largess, and to describe its beneficiaries as inefficient and slow to adapt to the demands of the modern market. We respectfully submit that this is not correct. Our company strives every day to be as efficient and entrepreneurial as any. Our ability to invest in ourselves to achieve these goals, however, has been seriously hampered by continued dumping. The availability of distributions under the CDSOA is a direct result of the unfair trade practices we confront every day. It allows us to maintain and maximize our ability to compete and adapt to our markets, and it should not be repealed.

Thank you for your consideration of these comments. Please contact us directly if you have any questions concerning this letter.

Sincerely yours,

Gary F. Caligiuri
President

Superbag Corporation
Houston, Texas 77041
August 15, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Re: H.R. 1121 (CDSOA)

Dear Mr. Chairman:

In response to your July 25, 2005 Press Release, I am writing on behalf of Superbag Corp. and its 250 employees to express our strong opposition to the inclusion of H.R. 1121 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 1121 would repeal the Continued Dumping and Subsidy Offset Act ("CDSOA"). The bill is highly controversial. It cannot be fairly described as a "technical correction" to existing law.

Superbag Corp., headquartered in Houston Texas, is a U.S. producer of t-shirt style polyethylene retail carrier bags. We operate a three-module plant located under one roof in Houston, which is dedicated to the sole production of these plastic t-shirt bags.

Last year, our industry won antidumping cases against polyethylene retail carrier bags ("PRCBs") from China, Malaysia, and Thailand. With the antidumping orders now in place, we are concerned that some exporters are continuing to dump, absorbing the antidumping duties, and refusing to raise prices to non-injurious levels. CDSOA both discourages continued dumping and also compensates the victims of such continuing unfair trade. The law merely provides that antidumping duties are distributed to the supporters of the original antidumping petition. If and when the dumping stops, so do the CDSOA distributions. Thus, CDSOA has no impact on fairly traded imports.

Contrary to false claims of some consumers of unfairly priced imports, CDSOA has not led to the filing of frivolous antidumping petitions. In fact, the filing of new petitions has fallen sharply since CDSOA was enacted in 2000. Our industry filed our antidumping petitions because we were being injured by unfairly priced imports, not because of CDSOA.

Finally, it makes no sense to repeal CDSOA while negotiators in Geneva are considering a United States proposal to change the WTO Antidumping Agreement to clarify that that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, Congress should continue to urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering these comments.

Sincerely,

Isaac Bazbaz
Director

Tampa Maid Foods, Inc.
Lakeland, Florida 33802
August 31, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

As a major seafood importer and processor, and member of the American Seafood Distribution Association (ASDA), I would like to thank you for the opportunity to comment on H.R. 1121, legislation to repeal the "Continued Dumping and Subsidy Offset Act" (CDSOA), commonly known as the Byrd Amendment. Our organization strongly supports this legislation's inclusion in the miscellaneous trade bill.

We at Tampa Maid are convinced that the group of domestic seafood harvesters who filed an anti-dumping petition against imported shrimp with the Commerce Department and the U.S. International Trade Commission was primarily motivated by the prospect of receiving Byrd money. Instead of adapting their business strategy to keep pace with global competitors, as the ASDA has encouraged the domestic industry to do for years, we strongly believe the petition was filed in order to pave the way for receiving millions of dollars in special interest payments through the Byrd Amendment. The Byrd Amendment is a corrupting influence on the anti-dumping petition process and it conflicts with the underlying premise of an import tariff, which is to level the playing field.

Now that Commerce and the ITC approved the duties on shrimp imports, Tampa Maid not only must pay the duties but also see the monies in the future transferred to the domestic industry as a reward for filing their lawsuit. Meanwhile, we have had to reduce our Florida workforce by 13% and expect another 15% as we continue to move the value-added breading of shrimp off-shore. The Byrd Amendment which motivated the shrimp tariff is costing American jobs.

Bottom line, the Byrd Amendment is simply bad domestic policy. As a perfect example, the members of the domestic shrimp harvesting industry who filed the trade petition will not be required to use Byrd monies they receive to take steps necessary to modernize or improve their competitiveness. Instead, they can count on receiving a government handout for every tariffed shrimp imported into this country.

In closing, the Byrd Amendment was passed without consideration by the appropriate committees of Congress and has done unforeseen injury to American companies. We request that you include H.R. 1121 in the miscellaneous trade bill. We appreciate the opportunity to comment on this important issue.

Edward B. Smith
Executive Vice President

Texas Industries
Dallas, Texas 75247
August 31, 2005

The Honorable E. Clay Shaw, Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to the Committee's July 25, 2005 Press Release, I am writing on behalf of Texas Industries and its 2850 employees to express our strong opposition to the inclusion of H.R. 1121 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 1121 is a highly controversial bill that would repeal the Continued Dumping and Subsidy Offset Act ("CDSOA"). It can by no means be fairly described as a "technical correction" to existing law.

Texas Industries is headquartered in Dallas, Texas, and operates two cement plants in Texas and two cement plants in California with an annual production capacity of 5.0 million tons. We also operate 58 ready-mix plants and 19 aggregate plants in Texas, Louisiana, Oklahoma and Arkansas with annual production of 4.0 million yards and 25 million tons, respectively.

In the late 1980's, our industry was severely damaged by dumped imports of cement from Mexico. The unfairly low prices of Mexican cement caused U.S. cement plants to close and took away any incentive to invest in new cement capacity. In 1990, the United States imposed antidumping duties on Mexican cement. Unfortunately, however, the dumping has not stopped. In fact, in the 13 administrative reviews conducted since the order was imposed, the Department of Commerce found that the dumping margin of CEMEX, S.A., the dominant Mexican producer, has averaged 63 percent. That means that even with the antidumping order in place, CEMEX's cement prices to customers in Mexico have been 63 percent higher than its cement prices to customers in the United States. The root cause of this unfair pricing behavior—a Mexican cement market that is closed to foreign competition—also has not changed since the antidumping order was imposed.

CDSOA both discourages continued dumping and also compensates the victims of such continuing unfair trade. The law merely provides that antidumping duties are distributed to the supporters of the original antidumping petition. If and when the

dumping stops, so do the CDSOA distributions. Thus, CDSOA has no impact on fairly traded imports.

CDSOA distributions to date under the cement antidumping order have been very limited because the Mexican Government has refused to appoint NAFTA panelists to hear pending appeals of administrative reviews going back a number of years. It would be extremely unfair to U.S. cement producers to repeal CDSOA before these very old entries are liquidated and available for distribution. When distributed, these duties will help U.S. cement producers to invest in new production capacity and to create new jobs.

Contrary to what some consumers of unfairly priced imports have claimed, CDSOA has not led to the filing of frivolous antidumping petitions. In fact, the filing of new petitions has fallen sharply since CDSOA was enacted in 2000.

Finally, it makes no sense to repeal CDSOA while negotiators in Geneva are considering a U.S. proposal to amend the WTO Antidumping Agreement to clarify that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, your Committee should urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering these comments.

Sincerely,

Mel G. Brekhus
President & CEO

The Bombay Company, Inc.
Fort Worth, Texas 76107
August 26, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

On behalf of The Bombay Company, Inc. (Bombay), I would like to thank you for the opportunity to comment on H.R. 1121, legislation to repeal the "Continued Dumping and Subsidy Offset Act" (CDSOA), commonly known as the Byrd Amendment. Our company strongly supports this legislation's inclusion in the miscellaneous trade bill.

Headquartered in Fort Worth, TX, Bombay has 5,000 employees with 2005 sales at $576.1 million. Since our inception in 1978, The Bombay Company has grown to approximately 500 stores, in malls and shopping centers throughout the U.S. and Canada, offering classic and traditional furniture, wall décor, and accessories for the bedroom, dining room, home office, and living room. Bombay's products also include baskets, candles, home fragrances, crystal, and soft goods. It operates outlet stores, BombayKIDS locations, and sells items through catalogs and on the Internet.

In 2003 a group of domestic furniture manufacturers worked to restrict consumer access to affordable high quality wooden bedroom furniture by filing an anti-dumping petition against furniture from China with the Commerce Department and the International Trade Commission. We believe that these petitioners were primarily motivated by the prospects of Byrd Amendment funds.

Now that Commerce and the ITC approved the duties on Chinese wooden bedroom furniture, Bombay not only must pay the duties but also see the monies in the future transferred to selected domestic manufacturers that we compete directly against! Dumping duties by their nature are supposed to increase the costs of goods, thereby making "unfair" imports "fair." Transferring the duties back to the U.S. producers causes a double benefit to those companies who filed the petition. Not only do they raise the price of goods to U.S. consumers, but the U.S. producers then collect huge payments from the government, with no requirements that they do anything with this money.

The Byrd Amendment actually helps very few companies. More than half of the Byrd Amendment payments in 2004 went to nine companies, and about 80 percent to only 44 companies nationwide.

Again, the furniture manufacturers who filed the trade petition will not be required to use the Byrd money they receive for job retraining or to improve their competitiveness. Instead, these companies can sit back and receive a government handout on every wood bedroom product imported into this country from China, and it goes right into their bottom-line. Bombay's millions of customers across America depend on having access to quality furniture for their homes at a reasonable price. We ask that the Trade Subcommittee consider the needs of retailers who import products, our employees, and our customers. The Byrd Amendment was passed without consideration by the appropriate committees of Congress and has done unforeseen injury to American companies.

As a matter of fundamental fairness, we ask that you include H.R. 1121 in the miscellaneous trade bill and once again applaud you for your leadership on this important issue.

Michael J. Veitenheimer
Vice President and General Counsel

Statement of Scott Riehl, The Food Products Association

This testimony is submitted on behalf of the member companies of the Food Products Association ("FPA") in support of H.R. 1121, a bill that would repeal the Continued Dumping and Subsidy Offset Act ("CDSOA"). FPA is the largest U.S. trade association serving the food and beverage industry. The membership of FPA includes over 300 companies responsible for the production of a substantial portion of the food and beverages sold in this country. FPA members are also significant exporters of these products to markets throughout the world.

Eight countries, representing 71 % of total U.S. exports, have been authorized by the World Trade Organization ("WTO") to impose duties on U.S. exports as a result of the failure of the U.S. to repeal the Continuing Dumping and Subsidy Offset Act ("CDSOA"). The CDSOA authorizes the payment of antidumping and countervailing duties to companies initiating such trade remedy cases. The WTO has determined that the Act violates the WTO Antidumping and Subsidies Agreements. Canada, the European Union, Japan, and Mexico have already imposed duties that will reduce exports of food and beverages, along with exports of many other products, by over $110 million in 2005 alone. As payments under CDSOA increase over the next few years, the level and scope of retaliatory duties imposed by these major trading countries will also increase significantly. The Administration strongly urges the repeal of the CDSOA. The bipartisan Congressional Budget Office ("CBO") has determined that the Act has caused significant harm to U.S. producers, consumers, and exporters. Repeal of the CDSOA is the only effective way to eliminate the growing adverse impact of the statute on the U.S. economy. On the other hand, the efforts of companies currently receiving payments to preserve the Act and to negotiate amendments permitting such payments in the ongoing Doha Round of multilateral trade negotiations would only lead to the adoption of similar laws in other countries with serious adverse consequences for U.S. exporters.

As indicated, the WTO has ruled that the CDSOA violates the WTO Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade (the "Antidumping Agreement") and the Agreement on Subsidies and Countervailing Measures (the SCM or "Subsidies Agreement"). Subsequent to the ruling, a WTO arbitrator gave the U.S. until December 27, 2003, to come into compliance with the ruling. Since this country did not comply with the ruling, the WTO, on November 26, 2004, authorized the eight countries that had participated in the proceeding against the CDSOA to impose retaliatory duties on exports from the U.S. to their territories.

The countries authorized to retaliate against U.S. exports are Brazil, Canada, Chile, the European Union (the "EU"), India, Japan, Korea, and Mexico. These countries account for 71% of total U.S. exports. Of these, four have already begun to impose duties on selected exports from the U.S. The range of products already subject to duties includes many sectors, including food and beverage.

- Canada has been authorized by the WTO to impose duties sufficient to reduce U.S. exports to Canada by $14 million in 2005. Accordingly,

Canada has imposed 15% duties on live swine, frozen fish, and oysters. Canada has already published a list of additional industrial and agricultural products upon which it will impose duties if the CDSOA is not repealed.

- The EU has been authorized to impose duties that would reduce U.S. exports by $28 million in 2005. The EU has imposed 15% duties on imports of a number of industrial, paper, and apparel products, as well as sweet corn from the U.S. A large "reserve list" of additional products that are subject to possible retaliatory duties in future years has also been published.
- Mexico has been authorized by the WTO to impose duties that would reduce U.S. exports by $20.9 million in 2005. Effective August 18, 2005, Mexico imposed a 30% duty on imports from the U.S. of skim milk powder dairy blends, a 20% duty on wine, and a 9% duty on chewing gum and candy.
- Japan has been authorized to impose retaliatory duties sufficient to reduce U.S. exports by $52 million. Although Japan has not yet retaliated against U.S. food or beverage products, it has imposed 15% duties on various steel products and industrial equipment from the U.S.
- The remaining countries that are entitled to impose sanctions on U.S. exports, Brazil, Chile, India, and Korea, have been authorized to impose sanctions that would reduce U.S. exports by 72% of the annual level of antidumping and countervailing duties collected on their exports to the U.S.

It should be assumed that, should the U.S. continue in its failure to repeal the CDSOA, most of the remaining four countries would also impose duties on U.S. products. More significantly, the level of duties and the scope of products subject to retaliatory duties will almost certainly increase so long as the CDSOA remains in effect.

Under the rules of the WTO, countries are permitted to impose sanctions to affect a value of trade equivalent to the value of trade of the complaining countries adversely affected by the policies of the country in violation of the WTO agreements. In the case of the CDSOA, the value is

determined by the amount of money paid out to U.S. producers under the legislation. The payments for the period 2001 through 2004 have averaged in excess of $250 million. However, if the CDSOA is not repealed, the payments to U.S. producers could increase to over $1 billion annually in 2007,

in large part due to payment of over $ 4 billion in duties that the U.S. has already collected on imports of softwood lumber from Canada. The level and scope of retaliatory duties on U.S. exports will increase in direct proportion to the value of payments made to U.S. producers under CDSOA.

Beyond the obvious adverse impact of the CDSOA on U.S. exports, the failure to repeal this legislation has resulted in a significant adverse impact on the U.S. economy as a whole. The U.S. has maintained a policy of compliance with WTO dispute settlement determinations because, on balance, these determinations have been favorable to this country. Since the U.S. maintains an open trade market, in general compliance with WTO agreements, it stands to benefit from WTO determinations that have led to the elimination of non-WTO-compatible barriers to U.S. exports imposed by our trading partners.

Recognizing that it is in the general interest of the U.S. to comply with WTO decisions, the Administration has strongly supported the repeal of the statute. The Congressional Budget Office ("CBO") has also determined that the repeal of CDSOA would be in the best economic interest of the U.S. Based upon a request made last year by the Chairman of the Ways and Means Committee, CBO undertook a study on how the CDSOA "benefits, harms, or distorts economic activity." On March 2, 2004, CBO responded to the inquiry with a report that clearly stated that the legislation was, on balance, harmful to the U.S. economy. In its cover letter to the Chairman, the Director stated:

Although it is not possible to provide a precise estimate of the effects of antidumping and countervailing duties on the economy, it is generally acknowledged that whatever gains might occur in terms of perception of the fairness of trade come at a cost in terms of lower output for the economy as a whole and lower economic well-being of the citizenry. Continued Dumping and Subsidy Offset Act of 2000 increases that cost by providing incentives for more U.S. businesses to pursue more antidumping and subsidy complaints.

The law subsidizes the output of some firms at the expense of others, leading to inefficient use of capital, labor, and other resources of the economy. It discourages settlement of cases by U.S. firms and will lead to increased expenditure of economic resources on administration, legal representation of parties, and various other costs associated with the operation of the antidumping and countervailing-duty laws. To the extent that other countries adopt comparable policies, the law may lead to further interference in the ability of U.S. exporters to compete in the global trading system. Finally, the World Trade Organization (WTO) Appellate Body has ruled that the act violates the WTO agreement, leaving the United States vulnerable to

retaliation against its exports, although the amount of that retaliation has not yet been determined.

In closing, I would like to comment on a proposal being advocated by certain parties who oppose the repeal of the CDSOA. Basically these parties argue that, rather than repealing the Act, the consistency of the CDSOA with the WTO should be "clarified" in the Doha Round of multilateral negotiations currently underway in Geneva. While there have been issues arising out of dispute settlement proceedings that were appropriate for resolution through multilateral negotiation in the WTO, this is not one of them. In the first place, it will be years before the Doha Round of negotiations is concluded, if indeed it is ever successfully completed. In the meantime, retaliation against U.S. exports will continue to increase in level and scope. Furthermore, anyone reasonably familiar with the negotiation of the Antidumping and Subsidies Agreements in the WTO is aware that a major U.S. effort will be required in the Doha Round just to preserve the current level of protection. There is very little possibility that this country would be able to convince its trading partners that the WTO should be "clarified" to permit the adoption of legislation permitting payments of antidumping and countervailing duties to producers initiating such cases.

Finally, even if the U.S. were, by some chance, successful in advocating its interpretation of the compatibility of such legislation with the WTO agreements, it would lead to the adoption of similar legislation in other countries with serious adverse consequences for U.S. exporters. As pointed out by the Congressional Research Service in an updated report on the CDSOA issued on August 26, 2005:

As evident in recent appropriations legislation, Congress has also favored negotiations leading to recognition of the existing right of WTO Members to distribute collected AD and CV duties in a manner similar to CDSOA. This course of action is favored by many import-competing business associations, according to industry sources. If WTO Members agreed, the United States, along with all other Members, would have the option, expressly supported by the WTO, of disbursing AD and CV duties to affected companies or earmarking them for other uses. Many economists are concerned, however, that replication of the measure by other countries could lead to a multiplication or inefficient trade remedy actions worldwide.

The CDSOA is a lose-lose statute that is, on balance, harmful to the general interests of exporters, as well as producers and consumers in this country. The only entities that oppose repeal of the CDSOA are companies that are receiving or hope to receive payments under the statute. The longer the CDSOA remains in effect, the greater the continuing harm to the U.S. The FPA strongly urges the Committee to approve H.R. 1121 for inclusion in the Technical Corrections to U.S. Trade and Miscellaneous Duty Suspension Bills and to report it out for prompt and favorable consideration by the House of Representatives.

The Garlic Company
Bakersfield, California 93314
August 29, 2005

To: Ways and Means Committee Submittal

We are the owners of The Garlic Company. The Garlic Company packs and ships both fresh and peeled garlic. We employ approximately 125 full time employees and 325 employees seasonally.

We are very strongly opposed to H.R. 1121 Miscellaneous Tariff Bill (MTB) calling for the repeal of the CDSOA. We are also very strongly opposed to H.R. 2473(in the MTB), which alters the calculations of the "all others" rate AD/CVD cases. This would significantly reduce the amount of duties collected and distributed under CDSOA.

The distributions made to The Garlic Company under the CDSOA have helped in our survival against the massive amounts of imports from China. However these distributions have not been the "windfall" that one reads in many publications and hears from some politicians. The distributions contribute but do not fully compensate for damage done to our industry by unscrupulous Chinese importers. Distributions made to The Garlic Company have enabled us to make some improvements to our processing systems, which have contributed to lowering our cost. It has also allowed us to continue to employ our attorney group, which has been instrumental in defending ourselves against dishonest Chinese importers of fresh and peeled garlic. Through this group we have been able to give both Customs and the Department of Commerce valuable information. This information has led to a "crack down" on the never—ending scams and schemes of the unscrupulous Chinese garlic

importers. This unscrupulous activity also harms the legitimate Chinese importer. In the past ten years, our group, has supplied information to either the Department of Commerce or Customs that has led to action against the following schemes:

1) False declaration of the country of origin concerning Chinese garlic. This results in no duties paid or collected on Chinese garlic. This Chinese garlic is sold at very low prices thus driving down the price of domestic garlic and legitimate Chinese garlic.
2) Under declaring the value of imported Chinese garlic to avoid paying higher duties. In some cases this value was placed at a one-cent or a fraction of a cent. This results in incorrect and small amounts of duties being collected. This garlic is sold at far below market prices, which lowers the market for domestic and legitimately imported Chinese garlic.
3) Under declaring the amounts shipped within a container. This results in no duty being paid on the amounts undeclared within the container which enables the importer to sell at a lower than market price. This damages the market for the domestic shipper and the legitimate Chinese shipper.
4) Smuggling Chinese garlic from Canada into the United States. This results in no duties being collected and garlic that sells below the market price, which damages both the domestic shipper and legitimate importer.
5) Falsification of import documents. Chinese importers with high duty rates use the import information of Chinese importers with low or no duty rates. This many times occurs without the knowledge of the Chinese importer with the lower duty rates. This results in little or no duty being collected and damages the market for both the domestic shipper and legitimate Chinese importer.
6) Falsely declaring the contents of a container. An importer will load a container with garlic and declare it to be ginger or some other non-duty commodity. This results in no duties paid and harms the market for both the domestic shipper and legitimate Chinese importer.

These schemes and shams are something that a domestic garlic producer has to live with on a daily basis. Through our group's efforts and with the help of some legitimate Chinese importers we are able to gather information, which has helped both the Department of Commerce and Customs, curtail some of this activity. We understand these government agencies are understaffed and overworked so any creditable information that we can supply is helpful and saves tax dollars for all Americans. Domestic garlic producers can compete with legitimate Chinese garlic importers; we cannot compete against the unscrupulous importers of Chinese garlic. The CDSOA funds we receive partially help to uncover and stop the scams and schemes of the unscrupulous Chinese importers. This is essential to our survival.

No country can survive as a service oriented country. We need to support manufacturing and agriculture jobs in this Country for the long-term benefit of all our citizens. We expect our politicians to do their part by opposing the repeal of the CDSOA.

We also expect our politicians to support the United States sovereign right to distribute taxes as determined by Congress by fighting efforts to undermine the CDSOA in the World Trade Organization. We understand that Congress has called for our trade negotiators in the ongoing Dpha round to push for revision of the WTO agreements. We particularly agree that CDSOA and similar programs relating to individual countries' use of the AD/CVD duties they collect will be expressly accepted as WTO consistent. We feel this is the method to resolve the WTO dispute that is the basis for calls to repeal the Byrd Amendment. Thank you for your efforts in reviewing this very important issue.

With best regards,

Joe Lane

John Layous

The Home Depot
Washington, DC 20001
September 2, 2005

The Honorable Clay E. Shaw
U.S. House of Representatives
1236 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of The Home Depot and its 325,000 employees, I am pleased to submit this statement for the record in support of H.R. 1121, legislation that would repeal the Continued Dumping and Subsidy Offset Act (CDSOA), also known as the Byrd Amendment.

The Home Depot has long been a supporter of the free flow of goods and services in the global marketplace. Reducing trade barriers around the world and ensuring a safe supply chain is especially important to us as we import products from over 40 countries. In order for Home Depot to offer quality products, at the lowest possible prices, we continually strive to eliminate barriers to trade. But to convince our trading partners to respect the rule of law and maintain fair trading practices, the United States must lead by example and one important step towards that goal is to repeal the Byrd Amendment.

The World Trade Organization (WTO) ruled three years ago that the Byrd Amendment violated international trade rules. Calls to Congress by the Bush administration to repeal the law have gone unanswered and as a result a WTO panel authorized other WTO members to impose retaliatory tariffs on U.S. exports, which some countries have begun to impose.

The United States was a leader in establishing the Dispute Settlement Body (DSU) at the WTO. In fact the United States is one of the most active participants of the process. This country is also the world's largest trading nation giving the United States an enormous stake in a reliable system to promote and protect free trade. Certainly, if we expect other nations to respect DSU decisions, we must also take the good with the bad and respect the rule of law. No doubt, many countries are watching closely to see how the United States addresses the WTO rulings on the Byrd Amendment; simply ignoring the ruling sets a precedent that we will come to regret.

As we continue to develop our partnerships with world-class, global suppliers, and expand on our current operation of 1,950 stores throughout North America, The Home Depot urges you to push forward with the effort to repeal the Byrd Amendment.

Sincerely,

Kent Knutson
Vice President-Government Relations

The NTN Companies
Mount Prospect, Illinois 60056
September 2, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade
Committee on Ways and Means
United States House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw:

In response to the Committee's July 25, 2005 request for comments and on behalf of our client, NTN Bearing Corporation of America, American NTN Bearing Manufacturing Corporation, NTN–BCA Corporation, NTN Driveshaft, Inc., and NTN–Bower Corporation (collectively, "the NTN companies"), we urge the Committee to include H.R. 1121, a bill to repeal section 754 of the Tariff Act of 1930, the Continued Dumping and Subsidy Offset Act ("CDSOA") (popularly known as the "Byrd Amendment"), in corrections to U.S. trade laws and miscellaneous duty suspension proposals.

NTN Bearing Corporation of America ("NBCA") is a United States company that imports finished bearings from NTN Corporation, a Japanese manufacturer of bearings and other products, and sells them to customers in the United States. Amer-

ican NTN Bearing Manufacturing Corporation ("ANMB"), NTN–BCA Corporation, NTN Driveshaft, and NTN–Bower are also United States companies; all presently engage in the manufacture of bearings, or products that use imported bearings, in the United States. These companies have existed in the United States, and have invested consistently and increasingly in United States production for the past thirty years.

These companies import products that are subject to the outstanding antidumping duty order on antifriction bearings from Japan. Additionally, many of these companies have imported products that were subject to other long-standing antidumping duty orders covering other kinds of bearings. The NTN companies, have, therefore, been involved in antidumping cases for approximately the past thirty years and the companies have firsthand knowledge of both the assessment of antidumping duties and the effects of such duties on the market for bearings.

It is from this position of knowledge, therefore, that the NTN companies urge the repeal of the Byrd Amendment. The Byrd Amendment harms domestic consumers of bearings in a number of ways, as set forth below. Based on these reasons, the NTN companies believe that the Committee should include language repealing the Byrd Amendment in its Omnibus Trade Bill.

First, the Byrd Amendment harms American manufacturers in two ways: 1) American manufacturers pay antidumping duties on the parts and components used in production that are subject to antidumping duties; and 2) these duty payments are, through the Byrd Amendment, directly transferred to certain United States competitors of these companies. U.S. companies pay more to import components and it therefore costs more to produce the bearings made from those components. In addition to these costs, part of the money paid by certain U.S. manufacturers is used to subsidize the production for other manufacturers. The Byrd Amendment, therefore, provides a direct subsidy to certain domestic manufacturers at the cost of other domestic manufacturers.

In fact, only nine domestic manufacturers received more than half of the Byrd Amendments payments in 2004 and only 44 domestic companies received more than 80 percent of the payments in the same year. However, recipient companies represent only a small percentage of the bearing producers in the United States. The Byrd Amendment should therefore be repealed because it confers a benefit on a small subset of domestic producers.

The effects of the Byrd Amendment are not restricted to domestic manufacturers of ball bearings; certain domestic sales companies, which sell imported product in the United States, are also affected. NTN Bearing Corporation of America, a U.S. sales company, pays antidumping duties on the imported, finished bearings. Additionally, NTN Driveshaft, Inc., a manufacturer of specialized products used in the automotive market, pays antidumping duties on imported bearings. To date, the United States has paid more than $1 billion, collected from manufacturers, distributors, and other importers, directly to those companies that supported antidumping petitions. The Byrd Amendment therefore affects large segments of the domestic bearing market, and other U.S. markets, again, to the advantage of a very small segment of those markets.

Second, to be eligible to receive payments pursuant to the Byrd Amendment, a United States company must support the petition that requests the institution of an antidumping duty order. This requisite clearly produces an incentive to support an antidumping petition and widen the requested scope of the case. Additionally, the allocation of Byrd Amendment money is based on "qual ified expenditures," which are not monitored or audited by Customs or any government agency. In the long run, then, the Byrd Amendment can hinder the expansion of United States industry because the free receipt of these funds creates a disincentive to commit additional investment to United States production; minimal production is all that is required to receive Byrd Amendment money.

Third, the Byrd Amendment increases the costs of importing raw materials and components of finished products by encouraging the initiation and prolonging of trade cases. These increases are passed along the entire supply chain, increasing costs and uncertainty at each point. The Byrd Amendment additionally harms the consuming industries within the supply chain because, while these industr ies are subject to increased prices because of the cases that generate Byrd funds, they have no ability to participate meaningfully in these underlying trade cases.

Finally, the World Trade Organization ("WTO") has determined that the Byrd Amendment conflicts with the obligation to free and open trade to which the United States committed when it became a member of the WTO. The United States' failure to repeal the Byrd Amendment led the WTO to authorize eight countries (including the European Union group of countries) to retaliate against the United States. This retaliation, in the form of increased duties for United States exports to the eight

countries, is yet another cost of the Byrd Amendment to United States industries. Retaliation proves that the Byrd Amendment only serves to re-allocate money among countries and companies, without regard to competitive market principles.

It is difficult to avoid the conclusion that the Byrd Amendment is simply a form of corporate welfare. Companies that compete solely on the merits of the product—cost, quality, delivery—may not receive additional funding from Byrd Amendment subsidies. This does not preserve American industry because a few companies receive bonus cash while others lack this competitive advantage in the market. This can only atrophy the competitive drive of the subsidized companies while the non-subsidized companies lack equivalent funds for research and investment. The ultimate loser is the American consumer, who suffers from decreased competition and innovation.

In conclusion, the NTN companies believe that the Byrd Amendment violates United States trade policy, is an unfair subsidy to a few domestic manufacturers, and unfairly increases the costs of doing business in the United States. The NTN companies therefore urge the Committee to repeal the Byrd Amendment now, before United States manufacturers are further damaged by the law.

Very truly yours,

Kazumune V. Kano

Titan America
Coral Springs, Florida 33071
Deerfield Beach, Florida 33441
August 15, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Re: H.R. 1121 (CDSOA)

Dear Mr. Chairman:

In response to the Committee's July 25, 2005 Press Release, I am writing on behalf of Titan America and its 1,900 employees to express our strong opposition to the inclusion of H.R. 1121 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 1121 is a highly controversial bill that would repeal the Continued Dumping and Subsidy Offset Act ("CDSOA"). It can by no means be fairly described as a "technical correction" to existing law.

Titan America is headquartered in Norfolk, Virginia, and operates construction materials manufacturing facilities throughout the eastern United States. Over 1,200 employees are based in Florida where I work as the Human Resources Manager.

In the late 1980's, our industry was severely damaged by dumped imports of cement from Mexico. The unfairly low prices of Mexican cement caused U.S. cement plants to close and took away any incentive to invest in new cement capacity. In 1990, the United States imposed antidumping duties on Mexican cement. Unfortunately, however, the dumping has not stopped. In fact, in the 13 administrative reviews conducted since the order was imposed, the Department of Commerce found that the dumping margin of CEMEX, S.A., the dominant Mexican producer, has averaged 63 percent. That means that even with the antidumping order in place, CEMEX's cement prices to customers in Mexico have been 63 percent higher than its cement prices to customers in the United States. The root cause of this unfair pricing behavior—a Mexican cement market that is closed to foreign competition—also has not changed since the antidumping order was imposed.

CDSOA both discourages continued dumping and also compensates the victims of such continuing unfair trade. The law merely provides that antidumping duties are distributed to the supporters of the original antidumping petition. If and when the dumping stops, so do the CDSOA distributions. Thus, CDSOA has no impact on fairly traded imports.

CDSOA distributions to date under the cement antidumping order have been very limited because the Mexican Government has refused to appoint NAFTA panelists to hear pending appeals of administrative reviews going back a number of years. It would be extremely unfair to U.S. cement producers to repeal CDSOA before these very old entries are liquidated and available for distribution. When distrib-

uted, these duties will help U.S. cement producers to invest in new production capacity and to create new jobs.

Contrary to what some consumers of unfairly priced imports have claimed, CDSOA has not led to the filing of frivolous antidumping petitions. In fact, the filing of new petitions has fallen sharply since CDSOA was enacted in 2000.

Finally, it makes no sense to repeal CDSOA while negotiators in Geneva are considering a U.S. proposal to amend the WTO Antidumping Agreement to clarify that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, your Committee should urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering these comments.

Sincerely,

Orlando Vazquez

Timothy Kuebler

Robert A. Sells

Titan America LLC
Norfolk, Virginia 23502
August 29, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to the Committee's July 25, 2005 Press Release, I am writing on behalf of Titan America LLC and its 1922 employees to express our strong opposition to the inclusion of H.R. 1121 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 1121 is a highly controversial bill that would repeal the Continued Dumping and Subsidy Offset Act ("CDSOA"). It can by no means be fairly described as a "technical correction" to existing law.

Titan America LLC is headquartered in Norfolk, VA and through subsidiaries operates one cement plant in Miami, FL, one cement plant in Roanoke, VA and 14 cement and aggregates terminals along the Eastern seaboard. We also operate more than 50 ready-mix concrete plants (17 in Virginia and 35 in Florida), five concrete block plants in Florida and five fly ash processing facilities from Florida to Massachusetts. Over 1200 of our employees live and work in Florida, where Titan America in 2004 completed a $200 million plus modernization project, which doubled the capacity of our Miami cement plant to 1.8 million tons annually and made it one of the must environmentally friendly and efficient plants in the United States.

In the late 1980's, our industry was severely damaged by dumped imports of cement from Mexico. The unfairly low prices of Mexican cement caused U.S. cement plants to close and took away any incentive to invest in new cement capacity. In 1990, the United States imposed antidumping duties on Mexican cement. Unfortunately, however, the dumping has not stopped. In fact, in the 13 administrative reviews conducted since the order was imposed, the Department of Commerce found that the dumping margin of CEMEX, S.A., the dominant Mexican producer, has averaged 63 percent. That means that even with the antidumping order in place, CEMEX's cement prices to customers in Mexico have been 63 percent higher than its cement prices to customers in the United States. The root cause of this unfair pricing behavior—a Mexican cement market that is closed to foreign competition—also has not changed since the antidumping order was imposed. The solution is not to repeal CDSOA, but to first force Mexico to open its economy to free trade in Portland cement.

CDSOA both discourages continued dumping and also compensates the victims of such continuing unfair trade. The law merely provides that antidumping duties are distributed to the supporters of the original antidumping petition. If and when the dumping stops, so do the CDSOA distributions. Thus, CDSOA has no impact on fairly traded imports. It also has no impact on the ultimate price of fairly traded imports of cement, since cement is a widely traded commodity.

CDSOA distributions to date under the cement antidumping order have been very limited because the Mexican Government has refused to appoint NAFTA panelists to hear pending appeals of administrative reviews going back a number of years. It would be extremely unfair to U.S. cement producers to repeal CDSOA before these very old entries are liquidated and available for distribution. When distributed, these duties will help U.S. cement producers to invest in new production capacity and to create new jobs.

Contrary to what some consumers of unfairly priced imports have claimed, CDSOA has not led to the filing of frivolous antidumping petitions. In fact, the filing of new petitions has fallen sharply since CDSOA was enacted in 2000.

Finally, it makes no sense to repeal CDSOA while negotiators in Geneva are considering a U.S. proposal to amend the WTO Antidumping Agreement to clarify that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, your Committee should urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering these comments.

Russell A. Fink
Vice President, General Counsel, and Secretary

Trade Masters, LLC
Peachtree City, Georgia 30269
August 31, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

On behalf of Trade Masters, LLC, I would like to thank you for the opportunity to comment on H.R. 1121, legislation to repeal the "Continued Dumping and Subsidy Offset Act" (CDSOA), commonly known as the Byrd Amendment. Our company strongly supports this legislation's inclusion in the miscellaneous trade bill.

Since its inception in 1995, Trade Masters has been supplying medium and large sized retailers throughout the United States and Canada with quality, value priced merchandise imported from various locations in Asia.

As you are aware, in 2003 a group of domestic furniture manufacturers worked to restrict consumer access to affordable high quality wooden bedroom furniture by filing an anti-dumping petition against furniture from China with the Commerce Department and the International Trade Commission. We believe that these petitioners were primarily motivated by the prospects of Byrd Amendment funds.

Now that Commerce and the ITC approved the duties on Chinese wooden bedroom furniture, Trade Masters not only must pay the duties but also see the monies in the future transferred to selected domestic manufacturers that we compete directly against! Dumping duties by their nature are supposed to increase the costs of goods, thereby making "unfair" imports "fair." Transferring the duties back to the U.S. producers causes a double benefit to those companies who filed the petition. Not only do they raise the price of goods to U.S. consumers, but the U.S. producers then collect huge payments from the government, with no requirements on what they do with this money.

The Byrd Amendment actually helps very few companies. More than half of the Byrd Amendment payments in 2004 went to nine companies and about 80 percent to only 44 companies nationwide.

Again, the furniture manufacturers who filed the trade petition will not be required to use the Byrd money they receive for job retraining or to improve their competitiveness. Instead, these companies can sit back and receive a government handout on every wood bedroom product imported into this country from China, and it goes right to their bottom-line. The American consumers depend on having access to quality furniture for their homes at a reasonable price. We ask that the Trade Subcommittee consider the needs of importers who supply these products, our employees, and our customers. The Byrd Amendment was passed without consideration by the appropriate committees of Congress and has done unforeseen injury to American companies.

As a matter of fundamental fairness, we ask that you include H.R. 1121 in the miscellaneous trade bill and once again applaud you for your leadership on this important issue.

Sincerely,

Ron O'Dell

Statement of Thomas M. Suber, U.S. Dairy Export Council, Arlington, Virginia

Given the recent retaliation action taken by the Mexican government, the U.S. Dairy Export Council strongly supports H.R. 1121. This legislation would repeal Section 754 of the Tariff Act of 1930, commonly referred to as the "Byrd Amendment". The U.S. Dairy Export Council (USDEC) is a non-profit, independent membership organization that represents the export trade interests of U.S. milk producers, dairy cooperatives, proprietary processors, and export traders. The Council's mission is to increase the volume and value of U.S. dairy product exports.

In 2003 the World Trade Organization ruled that the Byrd Amendment violates WTO rules and therefore that the U.S. must either repeal the law or be subject to retaliation. By choosing not to repeal the law, Congress has effectively chosen to allow countries to impose retaliatory tariffs on U.S. exports. In order to exercise this right, Mexico announced in August that it was imposing sanctions against U.S. dairy exports in retaliation for continued use by the U.S. of the Byrd Amendment. A new 30% tariff has been placed on dairy blends—H.S. code 1901.90.05.

The sanctions effectively halt a thriving business for U.S. dairy exporters. U.S. market share in Mexico has grown in recent years, particularly since prices for U.S. skim milk powder—the main constituent of dairy blends—have become more competitive. According to data from the U.S. Foreign Agricultural Service, the United States shipped 73,750 tons last year under tariff line 1901.90.05, valued at $143.8 million. In the first five months of 2005, U.S. exporters sold 43,001 tons, valued at $103.2 million. Market share has climbed from 12% in 2001 to nearly 85% today. These sales have been particularly important for U.S. dairy producers and dairy processors, as well as the U.S. government, because they have helped to sustain the price of powdered dairy products, thereby helping to avert costly U.S. government price support purchases of skim milk powder by the Commodity Credit Corporation.

The WTO authorized Mexico to assess damages of $20.9 million per year on U.S. exports. Unfortunately, the 30% tariff on dairy blends is high enough that it will make our product uncompetitive and effectively shut down this sizable dairy export business, far exceeding the damages authorized by the WTO.

Because of this situation and the adverse the Mexican tariff has on our dairy exports, USDEC urges Congress to support H.R. 1121. We believe that Mexico is inconsistently applying its WTO obligations through the use of an effectively blocking duty to a tariff line totaling such a sizeable level of imports. Despite that, however, we believe that the best avenue available to quickly solve this dilemma is to promptly repeal the Byrd Amendment in order to allow our hard-won trading opportunities for this product to escape severe harm and resume the benefits it provides to U.S. dairy producers and suppliers.

U.S. Foundry & Manufacturing Corp.
Hialeah, Florida 33018
May 30, 2005

Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Members of the Committee:

U.S. Foundry & Mfg. Corp. is an American manufacturer of cast iron products and one of the beneficiaries of the funds recovered under the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"), also known as the Byrd Amendment. We are a family-owned business, established in 1916, and I am the third generation to have the honor to manage this business. U.S. Foundry & Mfg. Corp. currently employs over 250 people in Florida, Georgia, North Carolina, and South Carolina.

It has long been our policy to reinvest earnings to enhance and expand our operations, improve productivity, and improve working conditions for our employees.

During the past four years, with the assistance of the funds we have received from the CDSOA, we installed a new charging crane for our melting department, improved our existing clean-up room, acquired the ability to produce ductile iron products, and installed a new shakeout and sand return belt system which, with the other improvements I mentioned, will allow us to continue to develop our business. Growing our business enables us to maintain our current work force. It also permits us to create new jobs with competitive compensation and benefit packages.

American manufacturers have a difficult time competing with foreign companies not burdened with the additional costs associated with environmental laws, OSHA regulations, insurance requirements, etc. Americans are not competing on a level playing field. The CDSOA helps to some degree by mitigating one of the factors that creates this un-level playing field. We all need to keep fighting to keep the CDSOA in place so that American manufacturers can survive in this global economy and continue to create good jobs for our citizens.

Alex L. DeBogory
Executive Vice President & Chief Operating Officer

[By permission of the Chairman:]

Union de Empresas Siderurgicas
Madrid, Spain
September 2, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Subcommittee on Trade of the Committee on Ways and Means
House of Representatives
Washington, D.C., U.S.A

Dear Mr. Chairman:

UNESID is the Spanish Steel Industry Association. It gathers all the Spanish steelmakers and more than 75% of the Steel downstream products companies.

On behalf of its members, UNESID, as interested party, wants to take the opportunity to provide comments on H.R. 1121, which aims to repeal the Continued Dumping and Subsidies Offset Act of 2000 (Section 754 of the Tariff act of 1930, as amended).

The Spanish steel companies have been adversely influenced by the "Byrd Amendment", and we support the inclusion of H.R. 1121 in the miscellaneous tariff bill, because:

1. Byrd Amendment is a powerful engine to distort fair international trade

- The massive refund of antidumping and countervailing duties affords a financial incentive to U.S. industries to file trade law actions, to broaden the scope of such cases (sometimes including products not produced in the United States), and to engage in harassing tactics to ensure the continuation of orders with the greatest possible margins. These incentives run counter to the intended purpose of the trade laws—to remedy the injury caused by dumping and subsidies.
- The Byrd Amendment provides a double hit to exporting companies into the U.S. market: first, foreign companies are forced to pay these duties; and second, due to the Byrd Amendment, the duty payments are then transferred to their U.S. competitors.

2. Byrd Amendment is inconsistent with World Trade Organization (WTO) rules that were approved by the U.S. Congress.

- The World Trade Organization (WTO) found that the Byrd Amendment violates WTO agreements and distorts trade.
- The United States has exhausted its appeals under the WTO regulation. A panel of experts ruled against the United States. That decision was ratified by the Appellate Body. Under the rules, the United States had 11 months—to December 27, 2003—to bring its statue into compliance with the WTO legal determination. That was not accomplished, and another 20 months have passed without corrective action.
- As is their right, adversely affected trading partners have begun to take measures to rebalance concessions between them and the United States. The

European Union, followed by Canada, Japan, and most recently Mexico—four of the leading trade partners of the U.S.—have imposed tariffs on various U.S. exports. This is the most widespread retaliatory measure ever taken under the WTO, and additional trading partners may take actions of their own in coming months.

- Further delay in correcting the legislation will add to the distorted effects, invite further retaliatory measures by trading partners, and diminish the credibility of the United States as a leading member of the system of trade rules embodied by the WTO.
- By contrast, timely repeal of Section 754 would eliminate an irritant in U.S. relations with the European Union and other leading trade partners, eliminate the threat of further retaliatory measures, and bolster the credibility of the WTO dispute settlement system.

UNESID thinks that the repeal of Section 754 should be adopted without delay.

Yours sincerely,

Juan Ignacio Bartolomé
Director General

Union of Italian Pasta Manufacturers
Rome, Italy
August 31, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Dear Chairman Shaw,

On behalf of the members of the Union of Italian Pasta Manufacturers (UNIPI—Unione Industriali Pastai Italiani), I would like to express our strong support for the inclusion of the bill H.R. 1121, repealing the Continued Dumping and Subsidy Offset Act (CDSOA), in the miscellaneous trade bill.

UNIPI is the national, non-profit, organization, established in 1968 to promote Italian pasta industry interests.

Our organization closely monitored the implementation of the *U.S. Continued Dumping and Subsidy Offset Act* in October 2000, which diverts proceeds from anti-dumping and countervailing duty cases to U.S. companies that file a trade case.

Pasta is one of the main EC products on which anti-dumping and countervailing duties have been collected and then redistributed to the U.S. competitors under the *Byrd Amendment.*

Since 1996 our companies have been imposed by the U.S. government unjustified tariff barriers creating serious market distortions and trade problems.

A WTO panel was asked for clarification and the EU together, with eight other WTO members, welcomed the Appellate Body report on 27 January 2003, which clearly rejected the Byrd Amendment. However, UNIPI regrets that no bill has passed the U.S. Congress to repeal the illegal practice in order to implement the ruling and comply with WTO rules. In the meantime, the EU imposed retaliatory measures, but it can only be seen as a second-best and intermediate measure.

The **Italian Pasta Industry, the world market leader in pasta production, consumption and export, fully supports the repeal of the Continued Dumping and Subsidy Offset Act** by inclusion of the bill H.R. 1121 into a miscellaneous trade bill because:

- the Byrd Amendment has shown to threaten exports of pasta from Italy, already heavily penalized by high antidumping and countervailing duties, that are increasing exporters costs and uncertainty;
- it encourages U.S. producers to file anti-dumping and countervailing duty cases and to keep existing AD and CVD orders in place with the only objective to receive money from these proceedings which is equivalent to a subsidy;
- the World Trade Organization (WTO) found that the Byrd Amendment violates WTO agreements and distorts trade yet the U.S. has ignored this ruling. U.S. authorities have already distributed to domestic petitioners more than U.S.$1

billion, and more than U.S.$33 millions have been given to our direct competitors in the pasta sector.

UNIPI members, accounting for more than 90 per cent of the Italian pasta production, rely on consistent and stable international rule-based trading system for import and export, based on competition and market forces and not on unilateral trade actions that have an opposite purpose.

We trust our position will be taken in due consideration by the Trade Subcommittee in deciding which bills will be part of the miscellaneous trade package.

Yours truly,

Mario Rummo
Chairman

Union of Organizations of Manufacturers of Pasta Products of the E.U.
Rome, Italy
September 1, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Dear Chairman Shaw,

On behalf of the members of the Union of Organizations of manufacturers of Pasta Products of the E.U. (UNAFPA), I would like to express our strong support for the inclusion of the bill H.R. 1121, repealing the Continued Dumping and Subsidy Offset Act (CDSOA), in the miscellaneous trade bill.

UNAFPA is a non-profit organization, established in 1960 by the Associations of Pasta Manufacturers of the European Union, with the aim to ensure the definition, representation and defence of the interests of the E.U. pasta industry.

Our organization closely monitored the implementation of the *U.S. Continued Dumping and Subsidy Offset Act* in October 2000, which diverts proceeds from anti-dumping and countervailing duty cases to U.S. companies that file a trade case.

Pasta is one of the main EC products on which anti-dumping and countervailing duties have been collected and then redistributed to the U.S. competitors under the *Byrd Amendment.* Since 1996 Italian companies, that represent about 74% of total EU pasta production, have been imposed by the U.S. government unjustified tariff barriers creating serious market distortions and trade problems.

A WTO panel was asked for clarification and the EU together, with eight other WTO members, welcomed the Appellate Body report on 27 January 2003, which clearly rejected the Byrd Amendment. However, UNAFPA regrets that no bill has passed the U.S. Congress to repeal the illegal practice in order to implement the ruling and comply with WTO rules. In the meantime, the EU imposed retaliatory measures, but it can only be seen as a second-best and intermediate measure.

The E.U. Pasta Industry, the world market leader in pasta production, consumption and export, fully supports the repeal of the Continued Dumping and Subsidy Offset Act by inclusion of the bill H.R. 1121 into a miscellaneous trade bill because:

- the Byrd Amendment has shown to threaten exports of pasta from Italy, EU main exporter, already heavily penalized by high antidumping and countervailing duties, that are increasing exporters costs and uncertainty;
- it encourages U.S. producers to file anti-dumping and countervailing duty cases and to keep existing AD and CVD orders in place with the only objective to receive money from these proceedings which is equivalent to a subsidy;
- The World Trade Organization (WTO) found that the Byrd Amendment violates WTO agreements and distorts trade yet the U.S. has ignored this ruling. U.S. authorities have already distributed to domestic petitioners more than U.S.$1 billion, and more than U.S.$33 millions have been given to our direct competitors in the pasta sector.

UNAFPA members rely on consistent and stable international rule-based trading system for import and export, based on competition and market forces and not on unilateral trade actions that have an opposite purpose.

We trust our position will be taken into account by the Trade Subcommittee in deciding which bills will be part of the miscellaneous trade package.

Thank you for your attention.

Yours truly,

Mario Rummo
Chairman

United States Steel Corporation
Washington, DC 20004
September 2, 2005

The Hon. E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade
U.S. House of Representatives Committee on Ways and Means
1104 Longworth House Office Building
Washington, DC 20515–6354

Dear Mr. Chairman:

On behalf of United States Steel Corporation ("U.S. Steel"), we would like to respond to your request for written comments with respect to technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. U.S. Steel fully endorses the comments submitted by the American Iron and Steel Institute opposing the inclusion of H.R. 1121 and H.R. 2473 in the miscellaneous tariff bill.

Both of the bills at issue are controversial and have no place in a measure intended to include non-controversial tariff adjustments and other similar measures. H.R. 1121 would repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"), apparently in response to a groundless dispute settlement decision at the World Trade Organization ("WTO"). CDSOA plays a critical role in assisting industries and workers injured by unfair trade, and Congress has clearly expressed its view that this issue should be resolved in ongoing WTO negotiations. Similarly, H.R. 2473 attempts to respond to another flawed WTO decision, one which involves a highly technical issue, and which could negatively impact enforcement of U.S. antidumping laws. Such a complex matter should not be addressed in a miscellaneous tariff bill.

We appreciate the chance to comment on these issues.

Terrence D. Straub
Senior Vice President—Public Policy & Governmental Affairs

United Steelworkers
Pittsburgh, Pennsylvania 15222
August 31, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

On behalf of the United Steelworkers union (USW), I am writing in response to the request for public comments regarding technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. The United Steelworkers would like to state its strong objections to the inclusion of two proposals (H.R. 1121 and H.R. 2473) in the package of bills the Committee is considering on policy grounds and because they are highly controversial.

The miscellaneous tariff package should not be a vehicle for making major policy changes nor for addressing World Trade Organization compliance issues. While the USW opposes the underlying legislation, the process should allow for individual consideration, debate and votes on issues as important as that which the bills cover.

H.R. 1121:

H.R. 1121 would repeal the Continued Dumping and Subsidy Offset Act (CDSOA)—also known as the Byrd Amendment. CDSOA has helped to ensure that producing interests here in the U.S. that have been victimized by unfair and predatory trade practices will be able to continue to invest in plant, equipment and people in the face of continuing illegal actions by our trading partners. We must maintain

the basic components of our trade law that give us the ability to fight for the public interest. The WTO decision with regard to CDSOA seeks to impose obligations on the U.S. that were never agreed to at the negotiating table. This not only undermines our economic interests, but undermines support for the WTO overall.

Congress has spoken out on this issue in a number of different ways—primarily by asking our United States Trade Representative to negotiate for the retention of the CDSOA as part of the Doha Round. The USW's view is that this is the right policy to pursue on its own merits, but will also increase confidence among the public that their government will fight for their interests. We believe that the USTR needs to be given the time—and the support—necessary to be successful in these negotiations. And, the WTO as an institution, and other

WTO members need to recognize that an open trading system will not survive based on arbitrarily imposed obligations, but must be rules-based.

Reaching a negotiated solution at the WTO that allows the U.S.—and our trading partners—to distribute tariff revenues as they do any other funds available to a government and with no additional restrictions is the appropriate course to follow.

CDSOA is already a provision of U.S. law and, therefore, its retention is currently assumed in the budget baseline. Repealing CDSOA would be correctly viewed by many as imposing new and higher costs on our farmers, workers and businesses. A miscellaneous trade package should not increase costs to U.S. agricultural and business interests. As you know, CDSOA allows for the reimbursement of eligible investments by injured parties in plant, equipment and people. Repealing this law could dramatically increase the cost of doing business and diminish the investments that are needed for these entities to remain competitive in the face of unfair and predatory trade practices by our competitors. Miscellaneous trade legislation should not be the vehicle for a revenue increase on U.S. taxpayers.

CDSOA retains enormous support among Members of Congress and the public. We would hope that the final package you develop would not include H.R. 1121 or any proposals to modify or repeal CDSOA.

H.R. 2473:

H.R. 2473 seeks to amend the antidumping laws of the country to alter how the "all other" rate is calculated. This legislative proposal is intended to respond to a decision by a WTO Appellate Body. The "all other" rate should continue to be a permissible practice and its retention will ensure that our trade laws can continue to function as Congress intended. H.R. 2473 would, in fact, increase the difficulty in administering our trade laws—an issue which the Appellate Body recognized when they issued their decision.

Inclusion of these bills would result in the proposed package becoming extremely controversial and would attract substantial opposition. The underlying issues which the bills seek to impact are import policy considerations on their own. As well, overreaching by the WTO is an important issue for the Congress to address—and should not seek to minimize that debate through consideration of major policy changes and compliance as part of what is generally considered to be a non-controversial package of legislation.

Sincerely,

William J. Klinefelter
Assistant to the President

Up Country, Inc.
Cumming, Georgia 30041
September 2, 2005

Honorable Clay Shaw, Jr.
Trade Subcommittee
House Ways and Means Committee

Dear Mr. Chairman:

I appreciate the opportunity to comment on HR1121 including legislation to repeal the Byrd Amendment. My husband and I own a small company that imports furniture. We are paying antidumping duty of 198.8% and feel it does not level the playing field at all but tries to remove us from the playing field, all the while subsidizing the petitioners who also import from third world countries. My company strongly supports this legislation. Putting duties collected back in the hands of the petitioners is clearly a conflict of interest and gives petitioners a financial incentive for filing dumping cases.

I am sure several respondents will articulate better than I why this should be re-

pealed. I would however like to address how monies collected could be used in a constructive manner. The China boom has definitely affected manufacturing in the U.S. and jobs have been lost in large numbers. It seems that offering relief to the displaced workers would deliver the monies where they are actually needed. Job retraining and short term grants for living expenses during the job retraining or relocation grants are viable ideas. I also recognize that some U.S. manufacturers also need some relief and perhaps training to make them more competitive in the global marketplace is essential. After all, when the DOC investigated thoroughly the largest companies in the furniture case with China, average rate of dumping was found to be only 6%. The only ones paying the 198.8% are the ones that were not investigated so there is no evidence they are dumping at all; only a lack of evidence they aren't. The figure of 198.8% was alleged by the petitioners and it has stuck. This scenario not only suggests minimal dumping but points to a bigger problem of remaining competitive in the global economy. Whatever monies collected should be directed to solve these bigger issues.

I hope that the Chairman will bear with me while I explain my own stake in this issue. My name is Leslie Thompson and my husband and I own a small company, Up Country, Inc. in Cumming, GA. We import furniture from China and represent two other companies headquartered in France. We have never purchased from U.S. manufacturers because the style of furniture we sell is European and has historically not been made in factories, but in small workshops. In the last 4 years as the dollar declined in value against the euro, our business has drastically reduced. In response to this, we went to China to look for other opportunities. We started importing from China but found it very difficult to find factories that would do small orders. After repeatedly facing this, we decided to open our own small factory north of Shanghai and dedicated our factory June 2004. The Department of Commerce instituted antidumping duty of 198.8% on bedroom furniture only one week later. Since last fall, when we shipped our first container of goods, we have been paying antidumping duty. This has resulted in a significant financial burden for our company. My factory in China is wholly owned by my husband and myself and we ship to ourselves here in the U.S., yet paying duties designed to hinder the Chinese from dumping. Our company was never any competition to Mr. Bassett or any of the companies in the original petition since we sell mostly to designer's one piece at a time. We are a niche player in the marketplace of furniture but we do have our place. We do not sell bedroom suites as the petition was initially designed to target. I am sure it was not the intention to put small companies out of business but that is the way I feel.

Although the request for comments was for the return of duties to the petitioners I find the entire process not without flaws. I have not found a venue to question the process. This has been devastating to our company and our employees and has truly made it difficult for us to stay in business. In a meeting last November, Asst. Secretary Jochum told me we were what they call "unintended consequences". He told me about the possibility of applying for a New Shipper Review if the order were finalized. He also mentioned that there was an ombudsman in the federal government that helped people file petitions against exporters/importers and he thought that same office should be able to help me with this process. I was able to file the application for a New Shipper Review on July 31st on my own. After reading the required documents for the evaluation process, it seems so complicated that legal counsel seems to be required. I have consulted two legal firms regarding this and received quotes of $60,000 to $150,000. This is astronomical and cost prohibitive for a company of our size. As of yesterday (Sept. 1st), the Assistant Secretary of Commerce signed an order to initiate a review of our company as a New Shipper. From questionnaire issuance, I will have 30 days to complete 3 gargantuan questionnaires and it appears experience in trade law is obligatory. I know I need help and feel that legal counsel should not be a prerequisite to request a review by my own government or it should not be so complicated that I cannot do it myself. (Assistance is given to petitioners when they want to file for duty. I have been assured the analysts will assist in any way they can and to date have been very polite and helpful; however they are the ones ruling on my case.

Is it possible for the government to offer me technical or legal assistance to get through this process?

I appreciate the efforts of the House Ways and Means Committee to evaluate these critical issues.

Kind regards,

Leslie W. Thompson

U.S. Magnesium LLC
Salt Lake City, Utah 84116
August 17, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Re: H.R. 1121 (CDSOA)

Dear Mr. Chairman:

In response to your July 25, 2005 Press Release, I am writing on behalf of U.S. Magnesium LLC ("U.S. Magnesium") and its 420 employees to oppose strongly the inclusion of H.R. 1121 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 1121 would repeal the Continued Dumping and Subsidy Offset Act ("CDSOA"). The bill would substantially change U.S. law to the disadvantage of companies like U.S. Magnesium that have made major investments based on the assumption that our trade laws will remain intact and will be strictly enforced. By no stretch of the imagination can this bill be fairly described as a "technical correction" to current law.

U.S. Magnesium is based in Salt Lake City, Utah, and is the sole remaining producer of primary magnesium in this country. The U.S. magnesium industry has been under assault from unfairly traded imports for more than a decade. During the past five years, two other major American companies—Dow Chemical and Alcoa—were forced to exit the industry for that reason. U.S. Magnesium has been able to survive in this business only because our government has enforced our trade laws when we have asked it to do so.

Magnesium is the lightest of all structural metals, and it is used in sophisticated commercial, industrial, and military applications. Among other things, magnesium is increasingly used by the automotive industry to reduce the weight of vehicles and thereby conserve energy.

Notwithstanding the severe harm that U.S. Magnesium has suffered from unfair trade, U.S. Magnesium has made major investments to upgrade and expand its operations, and to make its operations more environmentally friendly. In recent years, U.S. Magnesium has invested more than $50 million to develop and install new electrolytic cells to produce magnesium that have greatly enhanced the company's productivity, reduced its energy consumption, and dramatically curtailed the pollution associated with magnesium production. The success of these efforts has been recognized in awards given to our company by the U.S. Environmental Protection Agency and the State of Utah, among others.

This year, our industry won antidumping cases against imported magnesium from China and Russia. These cases were necessary because magnesium producers in these countries took measures to evade the effects of prior, successful cases that were brought against China and Russia.

As a result of the most recent cases, the profitability of our company has improved. Consequently, the company has received the approval of its owner to proceed with substantial new capital investments that will increase our capacity, and further enhance our productivity.

With the antidumping orders now in place, however, we are greatly concerned that some exporters will continue to dump, absorb the antidumping duties, and refuse to raise prices to non-injurious levels. As previously indicated, our experience has proven that magnesium producers in countries such as China and Russia will do whatever it takes to achieve and maintain a dominant position in this market.

The CDSOA does not in any way interfere with fair trade. It is intended to discourage continued dumping and to compensate the victims of such unfair trade. If and when the dumping stops, so do the CDSOA distributions. Thus, CDSOA has no impact on fairly-traded imports.

Furthermore, despite the claims of some consumers of dumped imports to the contrary, the CDSOA has not spurred the filing of groundless antidumping petitions. We have filed a number of antidumping and countervailing duty petitions, both before and after the CDSOA went into effect. We did so because we were being injured by unfairly priced imports—not because of CDSOA—and the U.S. Government subsequently found that our complaints were well-founded. Moreover, it is our under-

standing that the number of antidumping and countervailing duty cases filed in this country has actually fallen—not risen—since the CDSOA was enacted.

Finally, it would be especially unwise for Congress to consider the repeal of CDSOA at this time because this would fatally undermine the position of U.S. trade negotiators in Geneva. Other nations are now considering a proposal by the United States to change the WTO Antidumping Agreement to clarify that that the CDSOA is WTO-consistent. This proposal was advanced pursuant to the Congressional direction to the Administration in January 2004 to negotiate a solution to this issue in the Doha Round of WTO talks. Congress should not take any action that would impair the ability of our negotiators to resolve this controversial issue in those discussions.

Thank you for considering these comments.

Sincerely,

Lee R. Brown
Vice President, U.S. Magnesium LLC

Vanguard Plastics
Farmers Branch, Texas 75244
August 31, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to your July 25, 2005 Press Release, I am writing on behalf of Vanguard Plastics, Inc. and its 847 employees to express our strong opposition to the inclusion of H.R. 1121 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 1121 would repeal the Continued Dumping and Subsidy Offset Act ("CDSOA"). The bill is highly controversial. It cannot be fairly described as a "technical correction" to existing law.

Vanguard Plastics, Inc., headquartered in Dallas, TX, is a U.S. producer of plastic retail carry-out bags. We operate six plastic bag making plants located in the states of California, Florida, Missouri, Texas and Virginia. We also produce other related products in a plant in Texas.

Last year, our industry won antidumping cases against polyethylene retail carrier bags ("PRCBs") from China, Malaysia, and Thailand. With the antidumping orders now in place, we are concerned that some exporters are continuing to dump, absorbing the antidumping duties, and refusing to raise prices to non-injurious levels. CDSOA both discourages continued dumping and also compensates the victims of such continuing unfair trade. The law merely provides that antidumping duties are distributed to the supporters of the original antidumping petition. If and when the dumping stops, so do the CDSOA distributions. Thus, CDSOA has no impact on fairly traded imports.

Contrary to false claims of some consumers of unfairly priced imports, CDSOA has not led to the filing of frivolous antidumping petitions. In fact, the filing of new petitions has fallen sharply since CDSOA was enacted in 2000. Our industry filed our antidumping petitions because we were being injured by unfairly priced imports, not because of CDSOA.

Finally, it makes no sense to repeal CDSOA while negotiators in Geneva are considering a United States proposal to change the WTO Antidumping Agreement to clarify that that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, Congress should continue to urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering these comments.

William C. Seanor
Chairman & CEO

Lawrence G. Johnson
Vice Chairman and President

Jerry Mialaret
Plant Manager

Peter Loebs
Plant Manager

Robert Bailey
Vice President of Manufacturing

Darwin Groesbeck
Vice President, West Coast Region

Terry Phillippe
Operations Manager

Michael Cole
Production Manager

Doug Johnson
Production Manager

Vaughan Furniture Company, Inc.
Galax, Virginia 24333
August 26, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to the Ways and Means Committee's July 25, 2005 Press Release, Vaughan Furniture Company, Inc. and its 590 employees strongly oppose H.R. 1121 and its inclusion in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. The Continued Dumping and Subsidy Offset Act ("CDSOA") must be preserved to maintain effective remedies against unfairly traded imports. Congress should not treat its revocation as some sort of "technical correction."

Vaughan Furniture Company has corporate offices in Galax, Virginia and operates two manufacturing plants there, along with a veneer plant and a distribution center.

Unfairly priced imports from China contributed to the closing of over 65 U.S. wooden bedroom furniture factories during 2001–2004. These factories employed over 18,000 workers. Our industry's antidumping petition was opposed by over 30 law firms that represented the Chinese Government and over 100 Chinese companies. The Chinese Government even helped pay the legal fees of the Chinese companies. In 2004, we won our case, and the United States imposed antidumping duties to offset the dumped prices. Despite the antidumping order, however, we fear that some Chinese furniture exporters are continuing to dump their product in the United States at very low prices. They simply absorb the duties rather than adjust their prices to non-injurious levels as the law was intended

We need CDSOA to ensure that our antidumping order has its intended effect. CDSOA discourages foreign exporters from continuing to dump, because they know that their U.S. competitors are the ones that receive the duties they pay. In addition, if foreign producers choose to continue to dump, then CDSOA compensates the companies that are hurt by the continuing unfair trade practices. CDSOA distributions will enable our company to preserve U.S. manufacturing jobs.

One of the criticisms leveled at CDSOA is that it encourages the filing of frivolous petitions. This is completely untrue. CDSOA was certainly not the reason that our industry filed its antidumping petition. In fact, we understand that the number of cases filed has gone down considerably since CDSOA was enacted.

Finally, Congress should not consider repealing CDSOA at a time when negotiators in Geneva are considering a U.S. proposal to amend the WTO Antidumping Agreement to clarify that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, your Committee should urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering our comments.

William B. Vaughan
President/CEO/COB

Vaughan-Bassett Furniture Company
Galax, Virginia 24333
August 31, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to the Ways and Means Committee's July 25, 2005 Press Release, Vaughan-Bassett Furniture Company and its 1200+ employees strongly oppose H.R. 1121 and its inclusion in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. The Continued Dumping and Subsidy Offset Act ("CDSOA") must be preserved to maintain effective remedies against unfairly traded imports. Congress should not treat its revocation as some sort of "technical correction."

I am the President and CEO of Vaughan-Bassett Furniture Company, which is a domestic manufacturer of wooden bedroom and dining room furniture. Vaughan-Bassett is headquartered in Galax, Virginia and operates furniture manufacturing plants in Galax and Atkins, Virginia and in Elkin, North Carolina.

Unfairly priced imports from China contributed to the closing of over 65 U.S. wooden bedroom furniture factories during 2001–2004. These factories employed over 18,000 workers. I was the chairman of a coalition of 30 U.S. manufacturers that asked for an investigation of wooden bedroom furniture imported from China.

Our industry's antidumping petition was opposed by over 30 law firms that represented the Chinese Government and over 100 Chinese companies. The Chinese Government even helped pay the legal fees of the Chinese companies. In 2004, we won our case, and the United States imposed antidumping duties to offset the dumped prices. Despite the antidumping order, however, we fear that some Chinese furniture exporters are continuing to dump their product in the United States at very low prices. They simply absorb the duties rather than adjust their prices to non-injurious levels as the law was intended.

We need CDSOA to ensure that our antidumping order has its intended effect. CDSOA discourages foreign exporters from continuing to dump, because they know that their U.S. competitors are the ones that receive the duties they pay. In addition, if foreign producers choose to continue to dump, then CDSOA compensates the companies that are hurt by the continuing unfair trade practices. CDSOA distributions will enable our company to preserve U.S. manufacturing jobs.

One of the criticisms leveled at CDSOA is that it encourages the filing of frivolous petitions. This is completely untrue. CDSOA was certainly not the reason that our industry filed its antidumping petition. In fact, we understand that the number of cases filed has gone down considerably since CDSOA was enacted.

Finally, Congress should not consider repealing CDSOA at a time when negotiators in Geneva are considering a U.S. proposal to amend the WTO Antidumping Agreement to clarify that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, your Committee should urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering our comments.

Sincerely,

John D. Bassett III
President and CEO

Statement of Mark Allegranza, Vessey and Company, Inc., El Centro, California

Vessey and Company, Inc. is a California grower, packer, and shipper of produce with operations in El Centro and Coalinga, both in California. The Vessey family is one of the oldest farming businesses in California, having been established in 1915. Vessey and Company, Inc. carries a payroll of over 100 employees and hires outside labor contractors that employ many more to perform a variety of jobs, including harvesting and packing garlic in the San Joaquin Valley of California.

The past decade has seen a dramatic increase in Chinese garlic entering the USA and marketed at prices dramatically below the cost of domestically produced product. In 1994, the Commerce Department issued an antidumping order imposing a 376% duty on Chinese garlic, but after a few years of relief, imports from China now exceed the levels that prompted the order, largely because of abuse of the "new shipper" provisions in the law and other circumvention schemes.

Despite Chinese exploitation of loopholes in the antidumping law, one provision that has helped Vessey and Company, Inc. and other California garlic growers to compete with dumped Chinese imports has been the Continued Dumping and Subsidy Offset Act of 2000 (CDSOA, also known as the Byrd Amendment), which distributes assessed antidumping duties to the industries injured by dumping, rather than keeping that money in the general fund. We understand that there is currently a bill, H.R. 1121, in the Miscellaneous Tariff Bill (MTB) being considered by your Committee, that would repeal the CDSOA. We respectfully voice our strong opposition to H.R. 1121, and also to H.R. 2473 (also in the MTB), which would reduce the dumping margins assigned to "all other" exporters covered by antidumping orders. Passage of either or both of these bills would be greatly detrimental to the garlic industry (and many others as well).

The number of acres of garlic produced has dropped dramatically in recent years and we are concerned that at some point, it will be almost impossible to gain back the lost acres once they are out of production. If the United States does not maintain effective remedies against unfair import competition, the California garlic industry could some day be facing irreparable damage. The CDSOA is one such remedy that has contributed significantly to our ability to compete against dumped and subsidized imports, and only its continuation will allow us to remain in business. The packing facility in Coalinga includes a packing shed with numerous packing lines, cold rooms, a staging area, a loading dock, a scale, and a storage yard. Our investment in the facility exceeds $2.3 million and our annual budget exceeds $4.0 million. Without the amounts we have received under the CDSOA, maintaining these levels of investment would be more difficult.

The costs to operate in foreign countries such as China (where workers are paid $1.00 per day) are substantially below domestic costs and do not compete fairly with U.S. companies. We are confident that Congress will actively support manufacturing jobs in the U.S. by opposing repeal of the CDSOA and by supporting the U.S. government's sovereign right to distribute taxes as determined by Congress by fighting efforts to undermine the CDSOA in the World Trade Organization.

As you know, Congress has called for our trade negotiators in the ongoing Doha Round to push for revision of the WTO agreements so that the CDSOA and similar programs relating to individual countries' use of the AD/CVD duties they collect will be expressly accepted as WTO consistent. This is the better solution to the WTO dispute that is the basis for calls to repeal the Byrd Amendment.

In conclusion, Vessey and Company, Inc. urges the Committee to delete H.R. 1121 and H.R. 2473 from the Miscellaneous Tariff Bill.

WCI Steel, Inc.
Warren, Ohio 44483
August 29, 2005

The Hon. E. Clay Shaw
1236 Longworth House Office Building
Washington, DC 20515

Dear Mr. Shaw:

We at WCI Steel, Inc., an integrated steelmaker employing 1,650 in Warren, Ohio, urge you to exclude H.R. 1121 from the miscellaneous tariff bill now being considered. We not only oppose the repeal of the Continued Dumping and Subsidy Offset Act by Congress, we believe any legislative action on CDSOA is inappropriate and would weaken the United States' standing in future trade talks.

Our support for CDSOA stems from the painful truth that foreign governments continue to subsidize their steel industries and permit the unfair trade of goods into the United States, hurting American workers and companies. The distribution of unfair trade duties to these companies and workers is a necessary tool to ensure that anti-dumping and countervailing duty orders are effective.

Please note that CDSOA has no application to legally traded imports. Thus, a repeal would only serve as a green light to foreign companies and government to continue—and increase—the dumping of illegally traded imports into the United States.

Furthermore, CDSOA is not just a steel industry issue. In January, a group of U.S. CEOs representing workers in the agriculture, fishing, plastics and an array of manufacturing industries held a conference call with the White House to express support for CDSOA and urge the administration to negotiate a settlement on this issue with the World Trade Organization.

We believe international negotiations are the appropriate avenue for resolving WTO issues with CDSOA. A Congressional repeal would take CDSOA off the table and give the United States less leverage in future trade negotiations.

Again, we urge you to exclude H.R. 1121 from the tariff bill and allow the negotiation process to proceed. Please feel free to contact me with any questions.

Patrick G. Tatom
President & Chief Executive Officer

Webb Furniture Enterprises, Inc.
Galax, Virginia 24333
August 31, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to the Ways and Means Committee's July 25, 2005 Press Release, Webb Furniture Enterprises, Inc., and its 496 employees strongly oppose H.R. 1121 and its inclusion in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. The Continued Dumping and Subsidy Offset Act ("CDSOA") must be preserved to maintain effective remedies against unfairly traded imports. Congress should not treat its revocation as some sort of "technical correction."

Webb Furniture Enterprises, Inc., is headquartered in Galax, Virginia and operates a bedroom furniture manufacturing plant in Galax, VA., along with a Particleboard plant and Mirror plant which both serve as suppliers to the furniture manufacturing plant.

Unfairly priced imports from China contributed to the closing of over 65 U.S. wooden bedroom furniture factories during 2001–2004. These factories employed over 18,000 workers. Our industry's antidumping petition was opposed by over 30 law firms that represented the Chinese Government and over 100 Chinese companies. The Chinese Government even helped pay the legal fees of the Chinese companies. In 2004, we won our case, and the United States imposed antidumping duties to offset the dumped prices. Despite the antidumping order, however, we fear that some Chinese furniture exporters are continuing to dump their product in the

United States at very low prices. They simply absorb the duties rather than adjust their prices to non-injurious levels as the law was intended

We need CDSOA to ensure that our antidumping order has its intended effect. CDSOA discourages foreign exporters from continuing to dump, because they know that their U.S. competitors are the ones that receive the duties they pay. In addition, if foreign producers choose to continue to dump, then CDSOA compensates the companies that are hurt by the continuing unfair trade practices. CDSOA distributions will enable our company to preserve U.S. manufacturing jobs.

One of the criticisms leveled at CDSOA is that it encourages the filing of frivolous petitions. This is completely untrue. CDSOA was certainly not the reason that our industry filed its antidumping petition. In fact, we understand that the number of cases filed has gone down considerably since CDSOA was enacted.

Finally, Congress should not consider repealing CDSOA at a time when negotiators in Geneva are considering a U.S. proposal to amend the WTO Antidumping Agreement to clarify that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, your Committee should urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering our comments.

Sincerely,

Lee H. Houston, Jr.
President

Robert Kirby
Vice President of Administration

John Mcghee
Vice President of Sales

Barry Branscome
Vice President of Engineering

Webb Furniture Enterprises, Inc.
Galax, Virginia 24333
August 31, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to the Ways and Means Committee's July 25, 2005 Press Release, Webb Furniture Enterprises, Inc., and its 496 employees strongly oppose H.R. 1121 and its inclusion in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. The Continued Dumping and Subsidy Offset Act ("CDSOA") must be preserved to maintain effective remedies against unfairly traded imports. Congress should not treat its revocation as some sort of "technical correction."

Webb Furniture Enterprises, Inc., is headquartered in Galax, Virginia and operates a bedroom furniture manufacturing plant in Galax, VA., along with a Particleboard plant and Mirror plant which both serve as suppliers to the furniture manufacturing plant.

Unfairly priced imports from China contributed to the closing of over 65 U.S. wooden bedroom furniture factories during 2001–2004. These factories employed over 18,000 workers. Our industry's antidumping petition was opposed by over 30 law firms that represented the Chinese Government and over 100 Chinese companies. The Chinese Government even helped pay the legal fees of the Chinese companies. In 2004, we won our case, and the United States imposed antidumping duties to offset the dumped prices. Despite the antidumping order, however, we fear that some Chinese furniture exporters are continuing to dump their product in the United States at very low prices. They simply absorb the duties rather than adjust their prices to non-injurious levels as the law was intended

We need CDSOA to ensure that our antidumping order has its intended effect. CDSOA discourages foreign exporters from continuing to dump, because they know that their U.S. competitors are the ones that receive the duties they pay. In addi-

tion, if foreign producers choose to continue to dump, then CDSOA compensates the companies that are hurt by the continuing unfair trade practices. CDSOA distributions will enable our company to preserve U.S. manufacturing jobs.

One of the criticisms leveled at CDSOA is that it encourages the filing of frivolous petitions. This is completely untrue. CDSOA was certainly not the reason that our industry filed its antidumping petition. In fact, we understand that the number of cases filed has gone down considerably since CDSOA was enacted.

Finally, Congress should not consider repealing CDSOA at a time when negotiators in Geneva are considering a U.S. proposal to amend the WTO Antidumping Agreement to clarify that CDSOA is WTO-consistent. In January 2004, Congress directed the Administration to negotiate a solution to this issue in the Doha Round. Congress should not change course while the WTO negotiations are still pending. Instead, your Committee should urge Ambassador Portman to resolve this controversial issue in the Doha Round.

Thank you for considering our comments.

John McGhee
Vice President of Sales

Barry Branscome
Vice President of Engineering

Wellman, Inc.
Fort Mill, South Carolina 29715
August 26, 2005

The Honorable E. Clay Shaw, Jr.
Chairman,
House Ways and Means Committee
Subcommittee on Trade
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw:

On behalf of the more than 1900 employees of Wellman, Inc., the largest manufacturer of polyester staple fiber in the United States, with plants located in South Carolina and Mississippi, I wish to express our strong opposition to H.R. 1121 in the Miscellaneous Tariff Bill ("MTB") calling for the repeal of the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"), also known as the Byrd Amendment. In addition, I am also strongly opposed to H.R. 2473 (also contained in the MTB), which alters the calculation of the "all other" rate in AD/CVD cases, which would significantly reduce the amount of duties collected and distributed under CDSOA.

CDSOA distributes dumping and countervailing duties finally assessed to U.S. manufacturers harmed by dumped and subsidized imports. Repealing or modifying this law would be catastrophic for U.S. manufacturers in general and polyester staple fiber producers in particular. This law was enacted as a remedy for industries grievously injured by unfair trade, such as the U.S. polyester staple fiber industry. We should be strengthening our laws against unfair trade, not abandoning them.

I expect that Congress will actively support manufacturing jobs in the U.S. by opposing repeal of the CDSOA and by supporting the U.S. government's sovereign right to distribute taxes as determined by Congress by fighting efforts to undermine the CDSOA in the World Trade Organization.

I urge you to vote against any effort to repeal or modify the CDSOA.

Thomas M. Duff
Chairman and Chief Executive Officer

Wieland Metals, Inc.
Wheeling, Illinois 60090
September 2, 2005

Congressman E. Clay Shaw
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw:

Thank you for providing an opportunity for public comment on the various technical corrections and miscellaneous trade bills pending before the Trade Subcommittee. On behalf of Wieland Metals, Inc., we urge the subcommittee to include HR 1121 in any miscellaneous trade bill. HR 1121 would repeal the Continued Dumping and Subsidy Offset Act (CDSOA), enacted in 2000, through which assessed antidumping and countervailing duties that previously provided general Treasury revenues were instead paid to individual U.S. domestic producers that had supported the imposition of such duties.

Wieland Metals produces copper and copper alloy (including brass) strip, and enhanced-surface copper tubing with some 100 employees in Wheeling, Illinois. We obtain our brass inputs both from domestic U.S. producers and through imports from our parent company in Germany, Wieland-Werke AG. Since 1987, imports of certain brass sheet and strip from Germany have been subject to antidumping duties, which duties now are being paid to other domestic producers of brass sheet and strip.

We support the repeal of the CDSOA by inclusion of HR 1121 into a miscellaneous trade bill, or otherwise, for the following reasons:

1. The World Trade Organization has ruled that the CDSOA violates U.S. obligations under various WTO Agreements, including the Antidumping Agreement and the Agreement on Subsidies and Countervailing Measures. The time period within which the U.S. was obligated to come into compliance has expired, yet the U.S. has not done so. By failing to act upon the WTO ruling, the U.S. undermines its credibility on international trade issues generally and WTO disputes more specifically. The U.S. also has subjected its own manufacturers to retaliation abroad.
2. The CDSOA provides an unfair, double remedy to our U.S. domestic competitors. We must pay antidumping duties for our imports from Germany, which duties themselves are designed to level the "playing field" and remedy in full any unfair trade practice. By then turning these funds over to our competitors, the U.S. provides them with an additional subsidy, tilting the "playing field" to their advantage.
3. The CDSOA was enacted without consideration by appropriate committees of Congress, and without the opportunity for public comment. It was not thoroughly considered, and has resulted in distortions among eligible and non-eligible U.S. producers in several cases. Benefits are awarded not based on harm or need but solely based on whether or not a domestic producer checked off a box indicating it supported the imposition of duties, which it may not have done for any number of reasons. There are documented cases of individual domestic producers being denied benefits, and thus being placed at a competitive disadvantage, due to mere oversight or other reasons having nothing to do with the ostensible purposes of the program. Two such cases are the subject of pending lawsuits in the Court of International Trade. *See PS Chez Sidney v. USITC,* Court No. 02–00635; *Giorgio Foods, Inc. v. United States,* Court No. 03–00286.
4. The CDSOA likely violates the First Amendment. Eligibility for benefits is impermissibly tied to the position taken by a domestic producer on a public policy issue before a government agency, the U.S. International Trade Commission ("ITC"). Indeed, the CDSOA also likely skews the information obtained by the ITC, as domestic producers that may have independent reasons for not supporting the imposition of antidumping or countervailing duties no longer communicate those views for fear of losing out on a share of the duties should they ultimately be imposed.
5. Repeal of the CDSOA not only would have no cost, but also it would result in additional revenue for the U.S. Treasury.

Thank you for your consideration.

Yours sincerely,

Markus Schuler
Executive Vice President

Will & Baumer, Inc.
Syracuse New York 13221
September 2, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

In response to your July 25, 2005 Press Release, I am writing on behalf of Will & Baumer, Inc. and its 45 employees to express our strong opposition to the inclusion of H.R. 1121 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 1121 would repeal the Continued Dumping and Subsidy Offset Act ("CDSOA"). The bill is highly controversial. It cannot be fairly described as a "technical correction" to existing law.

I would like to provide information regarding the anti-dumping situation with Chinese candles, and give you what background we have as to its impact on our company and the candle industry.

Beginning in the early to late sixties and early seventies, Will & Baumer lost a significant volume of consumer related candle sales to foreign imports. After struggling to compete with this influx, Will & Baumer finally got out of the consumer candle business. Then in the eighties we began to lose a significant volume of candle sales in our foodservice and florist segments of the market due to the Chinese candles that were making their way into the country at less cost than we could even buy the paraffin for.

Will & Baumer has lost millions of dollars of volume due to these factors and went from being an employer of approximately 400 people down to an employer that now has about 45 people.

We have only been able to remain in business due to our quality church candle line of business. Without the anti-dumping laws and the Byrd amendment, we expect that the same would happen in our religious market.

We feel that the CDSOA program and the Byrd amendment overall are an excellent way to help preserve a long standing U.S. industry. Without these programs the decline in this industry would have been much more severe possibly even eliminating U.S. production altogether.

Marshall J. Ciccone
Executive Vice President

[By permission of the Chairman:]

WirtschaftsVereinigung Metalle
Berlin, Germany
August 26, 2005

Trade Subcommittee to the Committee on Ways and Means
U.S. House of Representatives

Dear Sir,

WirtschaftsVereinigung Metalle (WVM; German Association of Non Ferrous Metals Industry) represents the interests of producers and fabricators of non ferrous metals such as aluminium, copper and copper alloys (including brass), zinc, lead, nickel, magnesium, precious metals and rare metals towards government and the public.

About 650 companies realize a turn over of about 29 billion Euro per year, with 110.000 employees.

We wish to put forward our comments on behalf of, for example, our member company Wieland-Werke AG.

We support the repeal of the Continued Dumping and Subsidy Act (*Byrd Amendment*) by inclusion of the bill H.R 1121 into a miscellaneous trade bill

because:

The Byrd Amendment provides a double hit to global companies like Wieland-Werke AG:

- They are forced to pay the anti-dumping duties to create fair competition, in the sense of U.S. Antidumping Legislation.
- As soon as fair competition is created by paying anti-dumping duties, it is newly abolished by paying subsidies to those American companies which earlier could have been affected by unfair trade practises.

By doing so, the efforts of the U.S. trade authorities to create fair competition between

- foreign competitors
- home industries

are changed to the contrary.

The World Trade Organization (WTO) found that the *Byrd Amendment* violates WTO agreements and distorts trade yet the U.S. has ignored this ruling.

We rely on open trade for the export sales of our member companies. The *Byrd Amendment* makes exporting brass sheet and strip for U.S. consuming industries more difficult and risky.

Allocation of *Byrd Amendment* money gives a benefit in form of a subsidy to those U.S. companies which are competitors of Wieland-Werke AG. By that competition is seriously distorted.

We support all efforts to create a world trade free of barriers, on the basis of reciprocity and in accordance with the principals of the WTO which are acknowledged by the most important world trade participants.

Furthermore we fully associate us with the comments which will be submitted on behalf of the **European Union.**

Hans-Reiner Häuβler

Wilfried Held

Wood Truss Council of America
Madison, Wisconsin 53719
August 31, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Chairman Shaw:

The "Continued Dumping and Subsidy Offset Act of 2000," often called the "Byrd Amendment," allows for the distribution of CVD/AD deposits to affected U.S. producers who originally petition for trade remedies that result in the imposition of such duties. On behalf of the Wood Truss Council of America (WTCA), **we are writing in support of H.R. 1121, and a repeal of this "Byrd Amendment."**

Established in 1983, WTCA is a national not-for-profit trade association currently representing the interests of 964 wood truss and wall panel manufacturer and structural component distributor members across the United States. Its growing membership also includes a broad range of interests within the structural building component industry: truss plate and original equipment manufacturers, computer engineering and service companies, lumber mills, inspection bureaus, lumber brokers and distributors.

Structural building components, in general, provide building designers and homeowners the ability to realize their most ambitious concepts, no matter how complicated or extraordinary their structure may be. This industry designs, manufactures, sells and delivers the structural elements that frame many homes and commercial buildings such as roof and floor trusses, wall panels, I-joists, engineered wood beams, plywood and oriented strand board (OSB).

Since the 1950s, when the modern metal plate connected wood truss (known more simply as a "truss") was first manufactured, its use in single-family and multi-family roof construction has increased. According to the National Association of Home Builders' Research Center, trusses account for more than 60% market share for residential roof construction nationwide. This is primarily because using trusses results in overall cost savings and increased construction speed, provides for greater design flexibility, and builds a stronger roof.

According to recent financial performance surveys of the industry, today there are over 2,460 structural building component manufacturing locations in the U.S., which annually manufacture and distribute more than $11 billion in products, and employ over 109,700 individuals. This industry touches each individual and local economy in many ways, as it helps to create strong, high-quality, cost-effective buildings, while providing numerous employment opportunities.

According to the International Trade Commission (ITC), 36% of the softwood lumber used in the U.S. comes from Canada. Based on recent industry financial performance statistics, combined with a study done by the ITC, the structural building component industry's annual steel purchases are approximately 475,000 tons of steel in truss plates and an additional 130,000 tons in connectors.

Hence, our manufacturers' competitiveness and profitability are directly harmed by the protectionist trade remedies encouraged and exacerbated through the Byrd Amendment. Please allow me to offer the following observations:

Byrd Creates Perverse Incentive:

The Byrd Amendment is bad policy because it essentially creates a double benefit for targeted companies: first, through an increase in prices due to a tariff-induced reduced supply; and second, through the distribution of tariff dollars to the petitioning companies that already gain the benefit from the increase in prices.

As a consequence, the Byrd Amendment has simply encouraged additional U.S. companies to file more protectionist trade suits to reap the benefits of a direct payment from their marketplace competitors.

Byrd Encourages Protectionist Trade:

According to the World Trade Organization, as recently as 1997 only 15 antidumping cases were filed in the U.S., and only nine in the entire first half of 2000. But since the Byrd Amendment took effect, the numbers have climbed to 76 in 2001, 35 in 2002, and 37 in 2003.

Forty-four U.S. companies have each collected at least $1 million through the Byrd Amendment in 2004, and total assessed duties were over $284.1 million. From 2001 through 2004, U.S. Companies have benefited from more than $1.04 billion through this protectionist trade law.

Byrd Makes My Problems Worse:

First, as stated earlier, the Byrd Amendment encourages the filing of CVD/AD trade remedy cases. These trade tariffs artificially raise the cost of my raw materials, like softwood lumber and steel, which also leads to unnecessary uncertainty or restriction of supply.

Second, the Byrd Amendment makes it possible for nearly $4 billion in CVD/AD duties collected on the importation of Canadian softwood lumber to be distributed to U.S. petitioning companies. However, U.S. petitioning companies account for only 54 percent of U.S. softwood lumber production. This provides an unfair competitive advantage to these petitioning companies.

Third, the possibility of distribution created by the Byrd Amendment of this nearly $4 billion in CVD/AD duties makes a negotiated settlement of the softwood lumber dispute between the U.S. and Canada nearly impossible.

Byrd Unfair, Passed Unfairly:

The Byrd Amendment was passed as an add-on to a last minute appropriations bill, without consideration by the appropriate committees of Congress/

The Byrd Amendment creates harm to consuming industries like mine, and yet I have no ability to participate meaningfully in the trade cases the Byrd Amendment encourages. Repeal of the Byrd Amendment is an essential step in allowing consuming industries an opportunity to protect our trade interests.

Byrd Harms International Trade:

The WTO ruled the Byrd Amendment illegal two years ago, and in November 2004 it gave formal approval for Canada, Japan, the EU and four other jurisdictions to retaliate against the U.S. for refusing to amend or rescind the Byrd Amendment.

In March 2005, the Canadian government announced it would impose a punitive 15 percent duty, equaling $11.6 million annually, on targeted goods including oysters, live swine, specialty fish and cigarettes imported from the U.S. The EU announced similar punitive tariffs as well on paper, agricultural, textile and machinery products imported from the U.S.

Thank you for allowing us to provide the subcommittee WTCA's views on H.R. 1121, please feel free to contact either of us if you have any questions or need for further information.

Kendall Hoyd
President

Sean D. Shields
Legislative & Political Affairs Manager

Johnson Controls, Inc.
Plymouth, Michigan 48170
August 31, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Trade Subcommittee of House Ways and Means Committee
1104 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Shaw:

On behalf of Johnson Controls, Inc. ("JCI"), I am writing in response to Notice, TR–3, "Shaw Announces Request for Written Comments on Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills," (July 25, 2005). JCI supports H.R. 1202, A bill to suspend temporarily the duty on unidirectional (cardioid) electret condenser microphone modules for use in motor vehicles. H.R. 1202 was introduced by Cong. Ryan and has broad support. The following Members are co-sponsors: Representatives Bob Beauprez, Mark Green, Sander M. Levin, Donald Manzullo, Thaddeus G. McCotter, John Conyers, Jr., Ron Kind, Ron Lewis and Ed Whitfield.

JCI imports microphones as described in the legislation for use in its automotive interior manufacturing operations. JCI is very familiar with this product and does not believe any U.S. company produces these microphones. Therefore, JCI does not expect that the bill would be controversial. JCI expects the revenue impact of the legislation to be small: the volume of JCI imports of the microphones is under $500,000 per year. JCI notes that the product description is extremely narrow, which should make the duty suspension administrable.

Passage of H.R. 1202 would be in the public interest because it would have a positive impact on U.S. manufacturing. The automotive industry is under severe pressure from foreign competition. By reducing the cost for an input, the bill would increase the competitiveness of U.S. manufacturing operations using the input. This, in turn, would help make U.S. manufacturing operations more competitive compared to foreign operations (that do not pay these input duties). While the legislation's impact is small, every measure that supports U.S. manufacturing is important to the U.S. automotive industry.

We appreciate your consideration of this letter. If you have any questions, please let me know.

Sincerely,

William J. Kohler

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman
Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20215

Dear Chairman Shaw:

On behalf of the American Apparel and Footwear Association—the national trade association of the apparel and footwear industries, and their suppliers—I am writing to express strong support for the following bills identified in the subject advisory.

HR 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure

Act with respect to actions of the Committee for the Implementation of Textile Agreements.

Comment: AAFA strongly supports this legislation and believes it is long overdue. The Committee for the Implementation of Textile Agreements (CITA) is responsible for far reaching decisions that deeply affect most AAFA members yet its actions are almost always taken behind closed doors with insufficient public scrutiny. This lack of transparency creates a highly unpredictable environment that is often perceived as being unfair. Recently, CITA has published guidelines to introduce some predictability into its deliberations. While we applaud those limited moves as a step in the right direction, we believe they are insufficient to provide the full accountability necessary for an intergovernmental agency which such responsibilities. Moreover, CITA has at times disregarded its own published guidelines as it has implemented China safeguard and short supply procedures. As a result, AAFA supports bringing CITA under the full jurisdiction of the Administrative Procedures Act.

HR 1121—A bill to repeal section 754 of the Tariff Act of 1930.

Comment: AAFA strongly supports the repeal of the Byrd Amendment. The Byrd legislation was enacted outside of the regular legislative process, by committees that do not enjoy primary jurisdiction over trade issues, and with no opportunity for public comment. Moreover, as has been found by the World Trade Organization (WTO), this provision puts the United States out of compliance with its WTO obligations. In fact, the European Union is currently assessing penalties on U.S. produced clothing in retaliation. Other countries have threatened to do the same. AAFA believes repeal of this abominable provision should be made a priority.

HR 1221, HR 3386, HR 3387, HR 3388, HR 3389, HR 3391, HR 3392, HR 3393, HR 3394, HR 3395, HR 3483, HR 3484, HR 3485, HR 3486, HR 3487, HR 3488, HR 3489, HR 3490, HR 3491—Duty suspensions with respect to various footwear articles. [Note: This does not include HR 3390, which we understand has been withdrawn.]

Comment: AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

HR 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.

Comment: AAFA strongly supports this legislation. Our association supported an earlier version of this legislation in the 108th Congress. This legislation would result in duty reductions for cotton fabrics that are already designated in short supply under various trade preference programs because these fabrics are unavailable in the United States and in the preference countries. Given that finished shirts may enter duty free using these fabrics, we believe it is also appropriate to permit the fabrics themselves to enter duty free. Thus, U.S. domestic manufacturers of shirts will be able to enjoy equal access to those same high quality fabrics that foreign based manufacturers enjoy.

HR 2589/HR 2590—Two bills to extend the temporary suspension of duty on certain filament yarns

Comment: AAFA strongly supports these provisions. AAFA was involved in the development of the original legislation and understand that the conditions that led to successful passage of the original legislation, including the fact that the yarns in question are not produced domestically, continue to exist. Thus, these provisions should be extended.

HR 1230—A bill to extend trade benefits to certain tents imported into the United States.

Comments: AAFA strongly supports this provision. This legislation relates to certain camping tents which are not made in the United States. Moreover, similar but slightly smaller tents, differentiated only by the fact that they are classified as "backpacking" tents, already enjoy duty free treatment. This provision would correct that anomaly.

In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment of such provisions may also facilitate proper findings of short supply for those programs, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

Footwear Distributors and Retailers of America
Washington, DC 20004
September 2, 2005

The Hon. E. Clay Shaw
Chairman
House Ways and Means Subcommittee on Trade
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw,

This letter is being submitted by the Footwear Distributors and Retailers of America (FDRA) and its members in response to the Subcommittee's request for comments on *Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills.*

FDRA's members comprise U.S. footwear distributors and retailers that, together, account for approximately 80 percent of footwear sales at retail in the United States. Also, imports now account for 99 percent of U.S. consumption of footwear. In other words, the U.S. footwear market comprises nearly all imports; any remaining U.S. production competes on basis other than price and is not affected by the elimination of tariffs.

FDRA and its members support the elimination of tariffs on footwear via all vehicles, including through legislation, free trade agreements and the current WTO Doha Round negotiations. FDRA recognizes the Committee's established practice of considering legislation to temporarily suspend duties on products only where annual revenue losses from duty suspensions total approximately $500,000 or less. FDRA understands that revenue losses from duty suspensions under H.R. 3487 are higher, but the amount remains modest and eliminating these tariffs will benefit FDRA and its member companies and in no way affect any domestic production. Therefore, FDRA supports passage of H.R. 1221, H.R. 3386, H.R. 3387, H.R. 3388, H.R. 3389, H.R. 3391, H.R. 3392, H.R. 3393, H.R. 3394, H.R. 3395, H.R. 3483, H.R. 3484, H.R. 3485, H.R. 3486, H.R. 3487, H.R. 3488, H.R. 3489, H.R. 3490 and H.R. 3491.

Peter T. Mangione

Footwear Distributors and Retailers of America

Retailer Members	**Distributor Members**
Bakers Footwear Group	ACI
Brown Shoe Company	Aerogroup Int., Inc.
Clarks Companies	ASICS Tiger Corporation
Designer Shoe Warehouse (DSW)	ATSCO Footwear, Inc.
Famous Footwear	AZALEIA
FOOTACTIONUSA	BBC International
Foot Locker, Inc.	BCNY International Inc.
Footstar, Inc.	Bennett Footwear Group
Gap, Inc.	Cels Enterprises
Genesco, Inc.	C.O. Lynch
J.C. Penney Company	Cole Haan
Meldisco	Converse
Naturalizer Retail	Drew Shoe Corporation
Payless ShoeSource	Dynasty Footwear
Sears, Roebuck & Company	Elan-Polo, Inc.
Rack Room Shoes	E.S. Originals
Retail Ventures, Inc.	Global Brand Marketing, Inc.
The Stride Rite Corporation	Green Market Services
Value City	HYI
Vans, Inc.	H.H. Brown Shoe Company
Wal-Mart	Inter Pacific Corporation

Jimlar Corporation
K–Swiss, Inc.
Jones Apparel/Nine West
Laird, Ltd
LJO, Inc
Mark Tucker, Inc.
Mephisto USA
Mercury International
Nike, Inc.
Olem Shoe Corporation
Prima Group Traders, Inc.
RANNA, Inc.
Reef
Reebok International
Renaissance Imports
Right Stuff, Inc.
Salland Industries LTD
Sara Lee
SG Footwear, Inc.
Skechers USA, Inc.
Street Cars, Inc.
The Rockport Company
The Topline Corporation
Valley Lane Industries
Wolverine World Wide

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Jim Issler, H.H. Brown Shoe Company, Vice-chairman
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Debbie Kocks, Wal-Mart Stores, Inc.*
Greg Ribatt, Bennett Footwear Group
Robert Callahan, Elan-Polo, Inc.
Joey Safedy, E.S. Originals
Laurence Tarica, Jimlar Corporation
Alan Luchette, Jones Apparel/Nine West Group
Robert Cooperstein, Mercury International
William Snowden, Sr., The Topline Corporation
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Steve Duffy, Wolverine World Wide
Cecil McDermott, J.C. Penney
Rick Thornton, The Stride Rite Corporation
Matt Rubel, Payless ShoeSource
Pamela Salkovitz, The Stride Rite Corporation*
Jeff Shepard, Meldisco

EX–OFFICIO

Robert Campbell, BBC International
Irving Wiseman, Mercury International
Joseph Russell, Elan-Polo, Inc., Chairman

Payless ShoeSouce, Inc.
Topeka, Kansas 66601
September 1, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

We are submitting these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, we wish to express our **support** for the following bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
H.R. 3389—To suspend temporarily the duty on certain footwear for girls.
H.R. 3391—To suspend temporarily the duty on certain athletic footwear.
H.R. 3392—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—To suspend temporarily the duty on certain work footwear.

H.R. 3394—To suspend temporarily the duty on certain work footwear.
H.R. 3395—To suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Payless ShoeSource, Inc. is the Western Hemisphere's largest family footwear retailer, with over 4,600 stores across the United States, Canada, Central America and the Caribbean. The vast majority of those stores are located in the U.S. The Company employs over 27,000 associates worldwide.

Over the last 20 years, the production of footwear in the United States has dwindled to practically nothing. The footwear manufacturers still in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes.

Most footwear duties are therefore out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The above bills would eliminate the duties on several types of footwear but they have been carefully drafted so as not to affect the few remaining types which are still manufactured in the United States.

Duty-free entry of footwear would benefit the U.S. customer. The movement towards duty-free footwear would also be consistent with the overall direction the United States has taken in recently negotiated free trade agreements in Latin America.

Negotiations of the DR–CAFTA and the last miscellaneous tariff bill both served to engage the remaining domestic footwear interests in a discussion of exactly which types of shoes are still made in this country. As a result of those negotiations, all but 17 of the 115 shoe classifications codified under the Harmonized Tariff Schedule will be able to enter the U.S. duty-free from the Caribbean Basin countries and the Central American nations which become signatories to the DR–CAFTA.

To the extent any domestic footwear production still requires duty protection, that field has been clearly drawn to include only 17 shoe types. To avoid controversy, those 17 types are unaffected by the above bills.

As the members of the Subcommittee are aware, tariff bills of this nature contain explicit references to 8-digit HTS numbers. The text of the bills, though, describes shoes types which are identifiable at the more specific 10-digit HTS level. Thus, the fiscal impact of these bills is limited to the more narrowly described footwear types and is of a much lower magnitude than might otherwise be suggested by an analysis at the 8-digit level.

In summary, eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months. Also, the bills are designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me or Nicole Bivens Collinson of Sandler, Travis & Rosenberg, P.A., if you have any questions on these provisions or require additional information.

Sincerely,

Michael J. Massey
Senior Vice President
General Counsel and Secretary

Retail Industry Leaders Association
Arlington, Virginia 22209
September 2, 2005

The Honorable E. Clay Shaw
Chairman
House Ways & Means Trade Subcommittee
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Retail Industry Leaders Association (RILA), we welcome the opportunity to submit comments on technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. There are several provisions that RILA strongly supports or opposes in the list of potential bills to be included in the Miscellaneous Trade Bill.

By way of background, RILA is an alliance of the world's most successful and innovative retailer and supplier companies—the leaders of the retail industry. RILA members represent almost $1.4 trillion in sales annually and operate more than 100,000 stores, manufacturing facilities and distribution centers nationwide. Its member retailers and suppliers have facilities in all 50 states, as well as internationally, and employ millions of workers domestically and worldwide. Through RILA, leaders in the critical disciplines of the retail industry work together to improve their businesses and the industry as a whole.

H.R. 1121—A bill to repeal section 754 of the Tariff Act of 1930

RILA strongly supports the inclusion of H.R. 1121 in the Miscellaneous Trade and Tariff bill. Repeal of the "Byrd Amendment" is a top priority for RILA and its members. The Byrd Amendment annually funnels money collected from antidumping and countervailing duty cases directly to companies that file petitions. These payouts create a perverse incentive for companies to file petitions and add an increasing number of product categories to those petitions in hopes of collecting a financial windfall. In addition, the presence of the Byrd Amendment impedes the settlement of trade cases because of the financial incentive given to the petitioners.

Since enactment of the amendment, the number of antidumping petitions filed on consumer ready products has increased. As a result of the amendment, more than $1 billion has been distributed to domestic petitioners with no strings attached and with no measurable increase to competitiveness. Repeal would not affect the operation of antidumping and countervailing duty laws, but would remove the perverse incentive to file cases and would keep revenue collected in the government treasury to be spent in a more appropriate way. Congress should support "fair-trade" that creates a level playing field for everyone, not just import-sensitive domestic industries.

In January 2003, the World Trade Organization Appellate Body affirmed an earlier ruling that the "Byrd Amendment" was a violation of U.S. WTO obligations. The U.S. should live up to its international obligations. The U.S. is now facing retaliatory tariffs from several countries on a wide range of products for not repealing the Byrd Amendment. In a time when export trade is so important to our economy, unnecessary duties stifle exports and cause widespread layoffs while corporate subsidies do nothing to enhance the competitiveness of domestic industries.

Consumers are the real losers in this process. By encouraging protectionist behavior, the Byrd Amendment drives up prices for American consumer by encouraging trade defense actions that can increase the cost of consumer goods. The taxpayer funds distributed as a result of the law could be better used for other purposes.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture

RILA strongly opposes this bill. Such a labeling provision is unnecessary and adds additional burdens and costs to importers and retailers. Under section 304 of the Tariff Act of 1930, imported home furniture is already required to have a permanent country of origin marking. We do not believe an additional labeling requirement is useful or appropriate.

Duty Suspension Bills

RILA supports the following duty suspension bills:

H.R. 3308—A bill to suspend temporarily the duty on erasers.
H.R. 3309—A bill to suspend temporarily the duty on nail clippers.
H.R. 3310—A bill to suspend temporarily the duty on artificial flowers.

H.R. 3311—A bill to suspend temporarily the duty on electric pencil sharpeners.

We believe that these products are not made in the United States in commercial quantities sufficient to satisfy RILA members and their customers. As well, the duty on these products averages less than 5%.

RILA also supports the following footwear duty suspension bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3388—A bill to suspend temporarily the duty on certain women's footwear.
H.R. 3389—A bill to suspend temporarily the duty on certain footwear for girls.
H.R. 3390—A bill to suspend temporarily the duty on certain protective footwear.
H.R. 3391—A bill to suspend temporarily the duty on certain athletic footwear.
H.R. 3392—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3394—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3395—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Production of footwear in the United States has significantly declined over the last 20 years. Footwear manufacturers in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes

As a result, most of the current footwear duties are out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The footwear duty suspension bills being considered would eliminate the duties on several types of footwear, but will not affect the few remaining sensitive footwear categories which are still produced in the United States.

Eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

Conclusion

Thank you for the opportunity to submit comments on the Miscellaneous Trade and Tariff bill. If you have any questions, please contact Lori Denham, RILA's Senior Vice President for Policy and Planning or Jonathan Gold, RILA's Vice President Global Supply Chain Policy.

Sincerely,

Sandra L. Kennedy
President

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its **support** for the following bills:

H.R. 3308—To suspend temporarily the duty on erasers.
H.R. 3309—To suspend temporarily the duty on nail clippers.
H.R. 3310—To suspend temporarily the duty on artificial flowers.
H.R. 3311—To suspend temporarily the duty on electrically operated pencil sharpeners.
H.R. 2477—To suspend, temporarily the duty on bicycle speedometers.
H.R. 2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-angle reflectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.
H.R. 2479—To suspend temporarily the duty on unicycles.
H.R. 2556—To suspend temporarily the duty on air freshener electric devices with warmer units.
H.R. 2557—To suspend temporarily the duty on air freshener electric devices.
H.R. 2817—To suspend temporarily the duty on certain basketballs.
H.R. 2818—To suspend temporarily the duty on certain leather basketballs.
H.R. 2819—To suspend temporarily the duty on certain rubber basketballs.
H.R. 2820—To suspend temporarily the duty on certain volleyballs.
H.R. 2821—To suspend temporarily the duty on certain synthetic basketballs.
H.R. 3033—To (1) provide duty-free treatment for certain educational devices; and (2) extend such treatment through December 31, 2008.
H.R. 3112—To suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
H.R. 3113—To suspend temporarily the duty on certain cups, with or without saucers, of porcelain or china.
H.R. 3114—To suspend temporarily the duty on certain flags.
H.R. 3115—To suspend temporarily the duty on certain clocks.
H.R. 3116—To suspend temporarily the duty on certain glass articles.
H.R. 3117—To suspend temporarily the duty on certain glass articles of lead crystal.
H.R. 3118—To suspend temporarily the duty on certain music boxes.
H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
H.R. 3389—To suspend temporarily the duty on certain footwear for girls.
H.R. 3391—To suspend temporarily the duty on certain athletic footwear.
H.R. 3392—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—To suspend temporarily the duty on certain work footwear.
H.R. 3394—To suspend temporarily the duty on certain work footwear.
H.R. 3395—To suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.

H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman
Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20215

Dear Chairman Shaw:

On behalf of the American Apparel and Footwear Association—the national trade association of the apparel and footwear industries, and their suppliers—I am writing to express strong support for the following bills identified in the subject advisory.

HR 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements.

Comment: AAFA strongly supports this legislation and believes it is long overdue. The Committee for the Implementation of Textile Agreements (CITA) is responsible for far reaching decisions that deeply affect most AAFA members yet its actions are almost always taken behind closed doors with insufficient public scrutiny. This lack of transparency creates a highly unpredictable environment that is often perceived as being unfair. Recently, CITA has published guidelines to introduce some predictability into its deliberations. While we applaud those limited moves as a step in the right direction, we believe they are insufficient to provide the full accountability necessary for an intergovernmental agency which such responsibilities. Moreover, CITA has at times disregarded its own published guidelines as it has implemented China safeguard and short supply procedures. As a result, AAFA supports bringing CITA under the full jurisdiction of the Administrative Procedures Act.

HR 1121—A bill to repeal section 754 of the Tariff Act of 1930.

Comment: AAFA strongly supports the repeal of the Byrd Amendment. The Byrd legislation was enacted outside of the regular legislative process, by committees that do not enjoy primary jurisdiction over trade issues, and with no opportunity for public comment. Moreover, as has been found by the World Trade Organization (WTO), this provision puts the United States out of compliance with its WTO obligations. In fact, the European Union is currently assessing penalties on U.S. produced clothing in retaliation. Other countries have threatened to do the same. AAFA believes repeal of this abominable provision should be made a priority.

HR 1221, HR 3386, HR 3387, HR 3388, HR 3389, HR 3391, HR 3392, HR 3393, HR 3394, HR 3395, HR 3483, HR 3484, HR 3485, HR 3486, HR 3487, HR 3488, HR 3489, HR 3490, HR 3491—Duty suspensions with respect to various footwear articles. [Note: This does not include HR 3390, which we understand has been withdrawn.]

Comment: AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

HR 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.

Comment: AAFA strongly supports this legislation. Our association supported an earlier version of this legislation in the 108th Congress. This legislation would result in duty reductions for cotton fabrics that are already designated in short supply under various trade preference programs because these fabrics are unavailable in the United States and in the preference countries. Given that finished shirts may enter duty free using these fabrics, we believe it is also appropriate to permit the fabrics themselves to enter duty free. Thus, U.S. domestic manufacturers of shirts will be able to enjoy equal access to those same high quality fabrics that foreign based manufacturers enjoy.

HR 2589/HR 2590—Two bills to extend the temporary suspension of duty on certain filament yarns

Comment: AAFA strongly supports these provisions. AAFA was involved in the development of the original legislation and understand that the conditions that led to successful passage of the original legislation, including the fact that the yarns in question are not produced domestically, continue to exist. Thus, these provisions should be extended.

HR 1230—A bill to extend trade benefits to certain tents imported into the United States.

Comments. AAFA strongly supports this provision. This legislation relates to certain camping tents which are not made in the United States. Moreover, similar but slightly smaller tents, differentiated only by the fact that they are classified as "backpacking" tents, already enjoy duty free treatment. This provision would correct that anomaly.

In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment of such provisions may also facilitate proper findings of short supply for those programs, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

Kellwood Company
Chesterfield, Missouri 63017
August 22, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of the Kellwood Company, we wish to advise you of our strong **support** for inclusion of H.R. 1230, introduced by Representative Blunt to be included in the Miscellaneous Tariff Bill.

The bill at issue, H.R. 1230, would grant duty-free treatment to certain tents with a sewn-in floor of a base size not to exceed 20' by 20' and classified under 6306.22.90 of the Harmonized Tariff Schedule of the United States (HTSUS). The request is being made, as these **camping** tents are unfairly disadvantaged vis-à-vis smaller backpacking tents that are classified under 6306.22.10 HTSUS and entered duty free. The purpose of these tents is essentially the same as the backpacking tents with the exception that they are larger to accommodate more people.

Customs and Border Protection differentiates between backpacking tents and other camping tents using specific criteria with respect to size and dimensions, number of persons accommodated, and weight. Backpacking tents are duty free. Other camping tents are subjected to duties of 8.8%. This additional cost, of course, gets passed on to the American family that purchases these larger tents. This unfair tariff allocation needs to be remedied, thus the bill is intended to lower the tariffs only on these larger camping-style tents.

It is not the objective of this bill to compete with or harm U.S. production in any fashion—Kellwood has been supplying camping goods to adventurers and backyard campers for over 100 years, and this bill covers only items that are no longer produced in the U.S. The effect would be to level the tariff application for camping tents whether they sleep one person or a family. We remain available for additional comment should you wish to contact us. Please feel free to call me at 314–576–3263 or Nicole Bivens Collinson, of Sandler, Travis & Rosenberg, at 202–216–9307 if you have any questions.

Sincerely,

Wendy Wieland Martin
Vice President
International Trade Services

Solvay Chemicals, Inc.
Houston, Texas 77098
August 31, 2005

The Honorable E. Clay Shaw
Chairman, House Ways and Means Subcommittee on Trade
1104 Longworth House Office Building
Washington, DC 20515

Dear Mr. Chairman:

I am writing to comment in favor of HR 1274, providing for the temporary suspension of duties on amyl-anthraquinone. Operating from our plants in Longview, Washington and La Porte, Texas, Solvay Chemicals uses a unique patented production process to produce hydogen peroxide that uses less energy and has a higher yield. Solvay Chemicals' production technique depends on a feedstock Amyl-anthraquinone (AQ) produced in Belgium. This import pays a 6.5 or 5.5 percent ad valorem duty rate, depending on whether it is imported in a pure form or in solution.

The reduction in costs provided by this duty suspension will help our Washington and Texas plants remain competitive in the U.S. market.

If you have any questions or comments, please do not hesitate to contact me.

We appreciate very much this opportunity to comment, and thank you for your consideration.

Richard L. Hogan
Executive Vice President

Cymer, Inc.
San Diego, California 92127
August 25, 2005

The Honorable E. Clay Shaw
Chairman, Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

Cymer Inc. of San Diego strongly supports H.R. 1336, a bill to clarify the tariff classification of light sources for semiconductor photolithography.

Cymer is the world's leading supplier of deep ultraviolet (DUV) illumination sources, the essential light source for DUV semiconductor photolithography systems. DUV lithography is a key enabling technology, which has allowed the semiconductor industry to meet the exacting specifications and manufacturing requirements for volume production of today's advanced semiconductor chips. Cymer is based in San Diego where we design and manufacture our light sources for export around the world.

Virtually every late generation consumer electronic device—whether a PC or laptop, cellular phone, pager, PDA, internet server, modem, appliance or automobile—contains a semiconductor manufactured using a Cymer light source. Today's advanced devices require smaller, faster chips with increased power and functionality, and the chipmakers turn to Cymer to provide the light source critical to producing these chips.

Cymer supplies light sources to all DUV lithography tool suppliers: ASM Lithography (ASML), Canon and Nikon. These companies in turn supply their tools to chipmakers. More than 80 chipmakers around the world use Cymer light sources in production.

The Information Technology Trade Agreement of 1996 ("ITA") eliminated customs duties on semiconductor manufacturing equipment, including photolithography equipment for semiconductor manufacturing. There has been inconsistent tariff treatment of light sources in some countries, however, resulting in this equipment being treated as duty free under the ITA in some countries, but not in others. Enactment of this bill will assist U.S. Government negotiators as they seek uniform tariff treatment from other signatories to the ITA. (Korea Customs, for example, assesses duty on our products as generic "lasers", while UK Customs agrees that they are semiconductor lithography equipment.)

We have received outstanding support from the Office of the U.S. Trade Representative and the Department of Commerce in our attempts to resolve our issue in Korea. H.R. 1336 will clarify the intent of the tariff provision covering semiconductor photolithography equipment, and will allow the United States Government to speak with greater authority in future negotiations.

Albert P. Cefalo
Sr. V.P. of Intellectual Property

SEMI
Washington, DC 20005
August 26, 2005

The Honorable Clay Shaw
Chairman, Ways and Means Trade Subcommittee
U.S. House of Representatives
1104 Longworth House Office Building
Washington, DC 20515

Dear Mr. Chairman:

On behalf of Semiconductor Equipment and Materials International (SEMI), I am writing in support of H.R. 1336, a bill intended to clarify the customs tariff classification of laser light sources which are components of photolithography semiconductor manufacturing equipment. We ask that you include this provision in a miscellaneous tariff bill.

SEMI represents nearly 1,000 U.S. companies in the $65 billion worldwide semiconductor equipment and materials industries. These industries supply the enabling technologies, including raw materials and advanced tools, to produce every semiconductor-based product.

H.R. 1336 was introduced by Rep. Duke Cunningham and is intended to clarify the tariff classification of laser light sources for semiconductor photolithography manufactured in San Diego by Cymer, Inc., a SEMI member company. This equipment is crucial to the manufacture of most semiconductor products such as microprocessors and memory components.

The Information Technology Trade Agreement of 1996 ("ITA") eliminated customs duties on semiconductor manufacturing equipment, including photolithography equipment for semiconductor manufacturing. There has been inconsistent tariff treatment of laser light sources in some countries, resulting in this equipment being treated as duty free under the ITA in some countries but not in others. Enactment of this tariff clarification will assist U.S. Government negotiators as they seek uniform treatment under the ITA.

SEMI supports passage of this bill as consistent with the ITA and the interests of our industry. Please contact me at 202–289–0440 if you have any questions. Thank you for your consideration.

Maggie Hershey
Director, Public Policy

Statement of Paul C. Rosenthal, Wire Rod Producers Coalition

The Wire Rod Producers Coalition, domestic producers of carbon and alloy steel wire rod ("CASWR"), strongly opposes efforts to legislatively exclude grade ER70S–6 ("S–6") wire rods from the scope of any antidumping and countervailing duty orders on CASWR. The Wire Rod Producers Coalition includes ISG Georgetown Inc., of Georgetown, South Carolina; Keystone Consolidated Industries of Peoria, Illinois and Dallas, Texas; and Gerdau Ameristeel, with facilities in Florida, New Jersey, Pennsylvania, Kentucky, Texas and Tennessee. This bill, H.R. 1407, was introduced by Representative LaTourette (R–OH), apparently at the request of Lincoln Electric Holdings Inc., of Cleveland, Ohio.

The domestic CASWR industry strongly opposes the bill or its inclusion in any miscellaneous tariff legislation. Any attempt to legislatively exclude certain products from antidumping or countervailing duty orders is by its very nature controversial because imports of such products have been found to contribute to the material injury of the domestic industry producing them. In this case, the Department of Commerce, the agency with expertise in such matters, has already administratively determined that an exclusion for S–6 was not warranted on existing antidumping and countervailing duty orders. The proposed legislation goes even farther, however, preventing the application of antidumping or countervailing duties that may be applied in any future cases, regardless of the ability of the domestic industry to produce the product or of the level of dumping or subsidization or material injury caused by such imports. Such a broad exclusion from antidumping duty and countervailing duty laws should not be the subject of legislation, much less miscellaneous tariff legislation.

BACKGROUND

On August 31, 2001, members of the Wire Rod Producers Coalition filed antidumping and countervailing duty petitions against a unfairly traded CASWR from a number of countries. The United States International Trade Commission found that the domestic wire rod industry was being materially injured by dumped and subsidized imports from various countries. In late 2002, antidumping duty orders were entered against dumped CASWR from Brazil, Canada, Germany, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine. Countervailing duty orders were entered against CASWR from Brazil and Canada. The countervailing duty order against Canada was later withdrawn.

The Department of Commerce has administrative procedures for considering amendments to the scope of antidumping and countervailing duty orders. During the course of the antidumping and countervailing duty investigations on CASWR, Lincoln Electric Holdings Inc., of Cleveland, Ohio, requested that the Commerce Department exclude from the scope of the investigations certain wire rods made to the American Welding Society ER70S–6 classification. *The domestic industry objected to this request on the grounds that it can and does produce this product and, on August 30, 2002, Commerce found that an exclusion for this product was not warranted. See, e.g., Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Carbon and Certain Alloy Steel Wire Rod from Brazil, 67 Fed. Reg. 55,805 (August 30, 2002).*

Having failed to obtain exclusion of ER70S–6 through the administrative process available to it, Lincoln Electric has several time sought a legislative solution to permit it to import dumped and subsidized ER70S–6. For example, on September 19, 2002, Senator Voinovich (R–OH) introduced on Lincoln Electric's behalf S. 2981, a bill that would have excluded ER70S–6 from the scope of any AD/CVD orders that were the result of the domestic industry's petitions. That bill was referred to the Committee on Finance, where no action was taken.

On February 26, 2003, Mr. Voinovich reintroduced the same bill as S.456, which was referred to the Committee on Finance. Lincoln Electric indicated its desire to have this bill attached to the Senate version of the Miscellaneous Trade and Technical Corrections Act of 2003 or some other appropriate vehicle. The domestic industry opposed the exclusion request, and it was not attached to any legislation in 2003

During 2003, the domestic industry produced ER70S–6 for other customers and successfully produced this product to Lincoln Electric's specification. ISG Georgetown's mill was closed between November 2003 and August 2004, during which period it was bought out of bankruptcy by ISG. Production of wire rod began again on ISG Georgetown's mill in August 2004, and ISG Georgetown has since produced other welding rod products for Lincoln Electric.

Gerdau Ameristeel's Beaumont, Texas, facility has the ability to produce this product on its existing equipment using purchased billets on a mill that was recently upgraded in a manner to permit enhanced production of welding wire rods. In 2003, Lincoln suspended efforts to produce trials of S–6 material at this mill when it was owned by North Star Steel on the basis of price. While some domestic customers have chosen to purchase domestic ER70S–6, Lincoln Electric has to date instead continued to import its requirements of ER70S–6 from countries subject to the antidumping duty orders.

REASONS FOR DOMESTIC INDUSTRY OPPOSITION TO THE EXCLUSION

The domestic wire rod industry strongly opposes any such legislative exclusion to the antidumping and countervailing duty orders because Lincoln Electric has already sought and been denied an exclusion for this product by the Commerce Department, the agency with the authority and expertise to evaluate such requests. The proper place for determining exclusions should be with the agencies that enforce the trade laws.

The Commerce Department has an administrative procedure known as a "changed circumstance review" that would permit purchasers to seek an administrative exclusion to the antidumping and countervailing duty orders if the facts have changed since the denial of the exclusion. To grant a legislative exclusion would undermine the administrative process and lead to other attempts to weaken these antidumping and countervailing duty orders by legislatively excluding other products that the domestic industry can produce. In addition, the proposed legislation seeks to prevent the application of antidumping and countervailing duties in any future cases regardless of the facts. Such a broad and indiscriminate exclusion cannot be justified.

An exclusion for ER70S–6 will undermine the intended relief to the domestic CASWR industry that the existing antidumping and countervailing duty orders are providing and permit unfairly traded imports to enter the United States, unencumbered by the discipline of the orders. Prior to the antidumping orders, the

domestic industry had undergone five straight years of operating losses and a raft of plant closure and bankruptcies caused by unfairly traded imports. Absent these orders, the condition of the domestic industry would have continued to decline, particularly in the difficult economy characterized today by increasing costs.

This bills would also provide a permanent exemption from any future antidumping or countervailing duty order against S–6 from any country. The application of the exclusion to future cases will hinder the domestic CASWR industry's ability to seek relief from unfairly traded and injurious imports of CASWR in the future. This would be an unprecedented step that would undermine the trade laws by preventing application of those laws where it is demonstrated that such imports are unfairly traded and causing material injury to the domestic industry. Such a law would also undermine the authority of the United States International Trade Commission and the Commerce Department, as well as impair the rights of the domestic wire rod industry. There is no need to grant relief against antidumping or countervailing duty orders that do not yet exist. All such relief must be viewed on a case by case basis and should not be granted as a prophylactic measure. Indeed, the prohibition on future duties in the bill may also violate Article 14 of the WTO Antidumping Code by impairing the rights of third countries to bring antidumping suits against imported S–6 in the United States.

ER70S–6 is a product that can be and is produced domestically. Using current equipment and production techniques, domestic producers believe that they can produce S–6 to meet the mechanical and chemical requirements set by Lincoln. It is not necessary to employ the processes stated in the bill to meet the technical requirements for S–6 wire rod, and such processes are designated for the sole purpose of precluding domestic producers from this business.

In addition to ISG Georgetown and Gerdau Ameristeel, Rocky Mountain Steel, Commercial Metals Corp., Republic Technologies and Charter Steel are also believed to be able to produce these products. To grant the legislative exclusion proposed will undermine the efforts of domestic producers to produce and market this product and will undercut the capital investments that have been made and are being made by the domestic industry to produce this and other CASWR products. A legislative exclusion will remove any incentive for Lincoln Electric and other purchasers to develop domestic suppliers for this product. The other major consumers of S–6 are Hobart (an ITW company), ESAB (a division of a Swedish company located in Ashtabulah Ohio) and National Standard, located in Niles, MI and Stillwater, OK. These producers of S–6 welding wire have purchased S–6 from domestic sources.

Lincoln Electric and other consumers of S–6 are not precluded from purchasing imported ER70S–6 if an exclusion from the antidumping and countervailing duty orders is not granted. The antidumping and countervailing duty orders do not cover all import sources, nor do they create quotas. Purchasers have the choice of purchasing such products from domestic producers, from foreign producers not subject to the order, or from producers subject to the orders at fair market prices (*i.e.*, with the payment of antidumping and/or countervailing duties).

Exclusions to antidumping and countervailing duty orders should be addressed on a case-bay-case basis at the agencies that enforce those laws. This bill, and the undermining of the antidumping and countervailing duty orders on CASWR (and indeed on the antidumping and countervailing duty laws themselves) that it will engender, is highly controversial and perhaps contrary to United States obligations under the WTO. It should not be the subject of a miscellaneous tariff bill.

Association of Georgia's Textile, Carpet and Consumer Products Manufacturers
Atlanta, Georgia 30303
September 2, 2005

Chairman Clay Shaw
Subcommittee on Trade
Committee on Ways and Means
1110 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw:

As President of GTMA: The Association of Georgia's Textile, Carpet and Consumer Product Manufacturers, I would like to express our association's strong support for the above bills, currently under review by your office.

In the absence of a reliable source of quality acrylic fiber in this hemisphere, our member companies are forced to import these materials from producers in Turkey

and the United Kingdom. The duties incurred as a result of this forced importation are very significant and serve to adversely affect Georgia textile producers' competitiveness in the marketplace. With the textile industry already suffering severe market disruption, these additional costs cannot be passed along to consumers and therefore make further job losses likely.

Georgia producers using acrylic fibers require shipments in sufficient quantity and quality to assure that production needs will be met. There is no longer a source who can meet these requirements without incurring tariffs. We therefore believe that the suspension of duty for acrylic fiber is appropriate and urge the United States International Trade Commission to give favorable consideration to these bills in an expedited manner.

Thank you for your support of the American textile industry.

G.L. Bowen III

Coats & Clark
Albany, Georgia 31705
August 12, 2005

House, Ways and Means Committee
U.S. House of Representatives
1102 Longworth House Office Bldg.
Washington, DC 20515

Re: H.R. 1534, H.R. 1535 and H.R. 1536
Duty Suspension—Acrylic Fiber

Dear Committee Member:

I am writing to let you know of our company's support of duty suspension legislation for acrylic fiber. Legislation to suspend duties on acrylic fiber was introduced by Congressman Howard Coble on April 8, 2005, and the bill numbers are H.R. 1534, H.R. 1535 and H.R. 1536.

Earlier this year, Solutia Inc. announced its departure from the acrylic fiber market as part of the company's reorganization plan. Solutia was the last remaining reliable producer of acrylic fiber in the U.S. and its exit from the market is a serious blow to U.S. textile manufacturers who use these fibers. In 2005, the U.S. market demand for acrylic fiber is estimated to be 198 million pounds.

The U.S. Textile Industry is already facing tremendous market pressures due to the lifting of textile and apparel quotas on January 1, 2005, and increased competition from China. If our industry is forced to absorb an eight percent average duty on imported acrylic fibers, many of us will be unable to compete and will be forced to exit the market for our product lines that utilize these fibers. If this happens, dozens of plants and thousands of workers across the country will be adversely affected.

We understand that Congress has provided the duty suspension process to address situations such as this, and we strongly encourage a favorable recommendation by the International Trade Commission on these bills.

Please do not hesitate to contact us if you have any questions or need additional information on this request.

Thank you for your consideration of the request.

Sincerely,

Audie McDearis
V.P. Supply Chain

Culp Upholstery & Artee Industries
Burlington, North Carolina 27215
August 22, 2005

Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

To the Committee:

Culp Inc. is one of the largest users of acrylic fiber in home furnishing and upholstery fabrics sold to a wide range of domestic and international customers. Our

Artee Industries division is a large purchaser of acrylic staple fiber for the production of yarns used in these fabrics.

With the closing of Solutia Incorporated of Decatur, Alabama, we have been forced to import the acrylic fiber to continue the operation of our yarn and fabric plants. At present there is only one domestic acrylic fiber producer, Sterling Fibers. Sterling does not have manufacturing capacity to supply the needs of the industry and does not offer the variety of gel dyed acrylic staple fiber colors to meet our specific requirements. In addition to our internal production, we are purchasing acrylic yarns from other domestic spinners who also are forced to purchase fiber off shore to meet their production needs.

Certainly when there were several domestic acrylic fiber producers there was justification for duty protection. Today with only one domestic producer, who is unable to meet the needs of the market, duties on acrylic staple fibers hinders our ability to compete profitably in the market both here and abroad. We therefore request that these duties be removed.

We will be glad to provide any additional information possible you request.

Robert G. Culp III
Chairman

Jerald S. Owens
Vice President Product Development

Kaltex Fibers and Cydsa
Washington, DC 20007
September 2, 2005

This statement is submitted on behalf of Kaltex Fibers S.A. de C.V. ("Kaltex") and Celulosa Y Derivados S.A. de C.V. ("Cydsa") in connection with the July 25, 2005 request for public comment by the Subcommittee on Trade of the Committee on Ways & Means regarding pending duty suspension bills. Kaltex and Cydsa wish to take this opportunity to register their opposition to three pending duty suspension bills covering acrylic fiber, which were introduced on April 8 as H.R. 1534, H.R. 1535 and H.R. 1536.

Kaltex and Cydsa are major North American producers of the acrylic fiber covered by the subject duty suspension bills. The two companies are headquartered in Mexico, with Kaltex maintaining acrylic fiber manufacturing operations in Altamira, Tamaulipas since 1985 and Cydsa producing acrylic fiber in El Salto, Jalisco since 1967. Together with Sterling Fiber, Inc. of Pace, Florida, Kaltex and Cydsa are the principal North American manufacturers of acrylic fiber (Sterling also opposes H.R. 1534, H.R. 1535 and H.R. 1536, as communicated to the U.S. International Trade Commission in a statement dated June 16, 2005).

The bills of concern would suspend the U.S. most-favored-nation (MFN) rates of duty through December 31, 2008 for the three basic types of acrylic fiber as shown below:

H.R. 1534: Acrylic or modacrylic staple fibers, not carded, combed, or otherwise processed for spinning ("top") as provided for under HTS 5503.30.00;

H.R. 1535: Acrylic or modacrylic filament tow ("tow") as provided for under HTS 5501.30.00; and

H.R. 1536: Acrylic or modacrylic staple fibers, carded, combed, or otherwise processed for spinning ("staple") as provided for under HTS 5506.30.00.

Kaltex and Cydsa oppose the requested duty suspensions because North American manufacturers, including Florida-based Sterling Fiber, have ample production capacity to satisfy U.S. demand for all types of acrylic fiber. Kaltex and Cydsa alone have an annual production capacity of 167,000 tons of acrylic tow, staple and top, with 107,000 tons of that capacity available for exportation to the United States. Combined with Sterling Fiber's capacity in Pace, Florida, this capacity is more than sufficient to readily replace the output from Solutia, previously the largest U.S. producer of acrylic fiber, which recently closed its Decatur, Alabama production facility.

A suspension of the MFN rates of duty on the subject categories of acrylic fiber, which range from 4.3 to 7.5 percent *ad valorem,* would have a major adverse impact on North American acrylic fiber producers by eliminating the tariff preference they have heretofore benefited from by virtue of their U.S.-based or NAFTA-eligible operations. Extending unilateral duty-free treatment to the world's largest producers of acrylic fiber, which are located primarily in the European Union and Japan, would seriously undermine the competitive position of North American suppliers.

Finally, we note that the duty impact of H.R. 1534–1536 would exceed $5 million annually. This is well above the Ways & Means Committee's threshold of $500,000 in annual duties foregone per duty suspension bill.

We appreciate this opportunity to share Kaltex and Cydsa's views on the pending duty suspension bills with the Ways & Means Trade Subcommittee. Please feel free to contact us if the Subcommittee has any questions regarding our position on this matter.

Thomas J. Scanlon
President
Benchmarks, Inc.

National Council of Textile Organization
Washington, DC 20007
August 31, 2005

The Honorable Clay Shaw
Subommittee on Trade
House Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw:

I am writing to let you know of the National Council of Textile Organization's (NCTO) support of duty suspension legislation for acrylic fiber. Legislation to suspend duties on acrylic fiber was introduced by Congressman Howard Coble on April 8, 2005, and the bill numbers are H.R. 1534, H.R. 1535 and H.R. 1536.

Earlier this year, Solutia Inc. announced its departure from the acrylic fiber market as part of the company's reorganization plan. Solutia was the last remaining reliable producer of acrylic fiber in the U.S. and its exit from the market is a serious blow to U.S. textile manufacturers who use these fibers. In 2005, the U.S. market demand for acrylic fiber is estimated to be 198 million pounds.

The U.S. textile industry is already facing tremendous market pressures due to the lifting of textile and apparel quotas on January 1, 2005, and increased competition from China. If our industry is forced to absorb an eight percent average duty on imported acrylic fibers, many U.S. textile companies will be unable to compete and will be forced to exit the market for product lines that utilize these fibers. If this happens, dozens of plants and thousands of workers across the country will be adversely affected.

We understand that Congress has provided the duty suspension process to address situations such as this, and we strongly encourage a favorable report by the Committee on these bills.

Please do not hesitate to contact me if you have any questions or need additional information on this request.

Thank you for your consideration of this request.

Sincerely,

Cass Johnson
President

National Spinning Co., Inc.
Washington, North Carolina 27889
August 12, 2005

Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Re: H.R. 1534, H.R. 1535, and H.R. 1536

To the Committee:

National Spinning Co., Inc. is one of the largest, if not *the* largest, purchasers of acrylic tow and staple in the United States. These acrylic raw materials are used to produce yarns in our North Carolina spinning, dyeing, and packaging facilities employing approximately 1,000 people. Our products are sold to a diverse range of domestic and international customers.

At present there is only one domestic acrylic fiber producer, Sterling Fibers. Sterling does not have adequate manufacturing capacity to supply the quantity nor the range of acrylic raw materials National Spinning requires to meet the needs of its customers. Therefore, since Solutia Incorporated of Decatur, Alabama filed for bankruptcy and subsequently closed its manufacturing facilities producing acrylic fibers, National has been forced to import acrylic raw materials to operate our plants and support market demand.

Previously, there were several domestic acrylic raw material producers, therefore plausible justification for duty protection. With only one local producer today however, *a producer unable to meet the needs of the local market,* duties on imported acrylic tow and staple efface our competitiveness and profitability. It is for these reasons that we request that duties be removed.

Among the products Sterling Fibers is unable to supply are dry spun, bi-component, acid-dyeable, and optically brightened fibers. In addition, Sterling indicates they are *not* in a position to offer National the volume of commodity fibers required to operate our plants.

We would be happy to provide you with additional information or details as necessary.

In conclusion, we urge you to lift the duties on acrylic tow, staple, and intermediate products immediately. This action will preserve U.S. jobs, boost our nation's competitiveness, and aid U.S. economic growth. Please feel free to contact me for any reason.

Sincerely,

James Chesnutt
President/CEO

Patrick Yarn Mills, Inc.
Kings Mountain, North Carolina 28086
August 25, 2005

The Honorable Clay Shaw
Subcommittee on Trade
House Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

Chairman Shaw,

I am writing to inform you of our company's support of duty suspension legislation for acrylic fiber. Legislation to suspend duties on acrylic fiber was introduced by Congressman Howard Coble on April 8, 2005 and the bill numbers are H.R. 1534, H.R. 1535 and H.R. 1536.

In January of this year Solutia Inc. closed it's USA acrylic fiber operations as part of the company's reorganization plan. Solutia was the last remaining reliable producer of acrylic fiber in the U.S. and its exit from this market is a serious blow to the textile manufacturers in our country.

In 2005, the U.S. usage of acrylic fiber is estimated to be 198 million pounds. The only other producer of acrylic fiber in this country is Sterling Fibers located in Pace, Florida with capabilities of producing only about 15% of this usage. Unfortunately, they are operating using mid 1950 era equipment with no modernization plans. Also, our facilities use modern open-end spinning equipment that requires fiber engineered for this process of which they are not able to produce.

The U.S textile industry is already facing tremendous market pressures due to the lifting of textile and apparel quotas on January 1, 2005 and increased unfair competition from China. It is imperative that the eight percent duty on acrylic fibers be lifted so we can compete within the market. If not, many plants and thousands of workers across the country will be adversely affected.

We understand that Congress has provided the duty suspension process to address situations such as this, and we strongly recommend a favorable report by the Committee on these bills.

Thank you for your consideration and please do not hesitate to contact me if you have any questions or need additional information on this request.

Gilbert Patrick
President

Quaker Fabric Corporation of Fall River
Fall River, Massachusetts 02721
August 30, 2005

The Honorable Clay Shaw
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw:

I am writing to let you know of our company's support of duty suspension legislation for acrylic fiber. Legislation to suspend duties on acrylic fiber was introduced by Congressman Howard Coble on April 8, 2005, and the bill numbers are H.R. 1534, H.R. 1535 and H.R. 1536. In addition, Congressman Barney Frank introduced H.R. 2591 to suspend duties on certain acrylic yarns, at our request, and passage of this additional bill is also very important to us.

Earlier this year, Solutia Inc. announced its departure from the acrylic fiber market as part of a broader reorganization plan. Solutia was the last remaining reliable producer of acrylic fiber in the U.S. and its exit from the market was a serious blow to U.S. textile manufacturers who use these fibers. In 2005, the U.S. market demand for acrylic fiber is estimated to be 198 million pounds.

The U.S. textile industry is already facing tremendous market pressures due to the lifting of textile and apparel quotas on January 1, 2005, and increased competition from China. If our industry is forced to absorb an eight percent average duty on imported acrylic fibers, many of us will be unable to compete and will be forced to exit the market for our product lines that utilize these fibers. If this happens, dozens of plants and thousands of workers across the country will be adversely affected.

We understand that Congress has provided the duty suspension process to address situations such as this, and we strongly encourage a favorable report by the Committee on these bills.

Please do not hesitate to contact me if you have any questions or need additional information on this request.

Thank you for your consideration of this request.

Sincerely,

Larry A. Liebenow
President and CEO

Statement of Paul Saunders, Sterling Fibers, Pace, Florida

- Solutia, the largest U.S. producer of acrylic fiber, in January, 2005 announced a shutdown of its production in Decatur, AL, leaving *Sterling Fibers, Inc. as the only American producer of acrylic fiber. We have 80 employees at our plant in Pace, FL.*
- *Sterling Fibers has a current capacity of 30 million lbs of annual production of acrylic fiber,* with *plans to expand to as much as 60 million lbs* in the immediate future if demand warrants the necessary investment.
- *Sterling can produce all the basic types of acrylic fiber needed in the American market.* However, we face the same array of unfair international competition and trading practices that drove all of our domestic competition out of business. Assuming new U.S. trade policies do not add to the existing disadvantages we are confident about our ability to continue supplying the domestic market.
- *The international market for acrylic fiber is laced with direct and indirect foreign government support for our competitors,* including tariffs much higher than the U.S. levels and a myriad of other trade distorting practices that disadvantage our position. For example, China, the world's largest market for acrylic fiber, is an aggressive market manipulator, employing centralized fiber procurement strategies that regularly and significantly distort the global market.
- The 4.3% U.S. tariff on acrylic staple fiber is the lowest in any significant market in the world. Its unilateral suspension would be an unfair and unwarranted imposition on Sterling Fiber, completely exposing the American market we serve to foreign government-assisted competition without compensating reciprocity.

- Sterling Fibers currently sells our CFF acrylic fibers into India, China, Brazil, Korea, Japan and several European countries and pays a duty into all of them. The unilateral give-away of the U.S. tariff leaves us with no reciprocal tariff reduction by any of these countries.
- Accordingly, Sterling Fiber, Inc. requests *withdrawal of the tariff suspension proposals that unfairly will disadvantage the only remaining viable U.S. production of acrylic fiber.*
- *NOTE: Sterling Fiber, Inc offers no objection to the temporary suspension of tariffs on modacrylic fiber. To the best of our knowledge, after Solutia's shutdown this product will no longer be produced in the U.S.*

Association of Georgia's Textile, Carpet and Consumer Products Manufacturers
Atlanta, Georgia 30303
September 2, 2005

Chairman Clay Shaw
Subcommittee on Trade
Committee on Ways and Means
1110 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw:

As President of GTMA: The Association of Georgia's Textile, Carpet and Consumer Product Manufacturers, I would like to express our association's strong support for the above bills, currently under review by your office.

In the absence of a reliable source of quality acrylic fiber in this hemisphere, our member companies are forced to import these materials from producers in Turkey and the United Kingdom. The duties incurred as a result of this forced importation are very significant and serve to adversely affect Georgia textile producers' competitiveness in the marketplace. With the textile industry already suffering severe market disruption, these additional costs cannot be passed along to consumers and therefore make further job losses likely.

Georgia producers using acrylic fibers require shipments in sufficient quantity and quality to assure that production needs will be met. There is no longer a source who can meet these requirements without incurring tariffs. We therefore believe that the suspension of duty for acrylic fiber is appropriate and urge the United States International Trade Commission to give favorable consideration to these bills in an expedited manner.

Thank you for your support of the American textile industry.

G.L. Bowen III

Coats & Clark
Albany, Georgia 31705
August 12, 2005

House, Ways and Means Committee
U.S. House of Representatives
1102 Longworth House Office Bldg.
Washington, DC 20515

Re: H.R. 1534, H.R. 1535 and H.R. 1536
Duty Suspension—Acrylic Fiber

Dear Committee Member:

I am writing to let you know of our company's support of duty suspension legislation for acrylic fiber. Legislation to suspend duties on acrylic fiber was introduced by Congressman Howard Coble on April 8, 2005, and the bill numbers are H.R. 1534, H.R. 1535 and H.R. 1536.

Earlier this year, Solutia Inc. announced its departure from the acrylic fiber market as part of the company's reorganization plan. Solutia was the last remaining reliable producer of acrylic fiber in the U.S. and its exit from the market is a serious blow to U.S. textile manufacturers who use these fibers. In 2005, the U.S. market demand for acrylic fiber is estimated to be 198 million pounds.

The U.S. Textile Industry is already facing tremendous market pressures due to the lifting of textile and apparel quotas on January 1, 2005, and increased competi-

tion from China. If our industry is forced to absorb an eight percent average duty on imported acrylic fibers, many of us will be unable to compete and will be forced to exit the market for our product lines that utilize these fibers. If this happens, dozens of plants and thousands of workers across the country will be adversely affected.

We understand that Congress has provided the duty suspension process to address situations such as this, and we strongly encourage a favorable recommendation by the International Trade Commission on these bills.

Please do not hesitate to contact us if you have any questions or need additional information on this request.

Thank you for your consideration of the request.

Sincerely,

Audie McDearis
V.P. Supply Chain

Culp Upholstery & Artee Industries
Burlington, North Carolina 27215
August 22, 2005

Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

To the Committee:

Culp Inc. is one of the largest users of acrylic fiber in home furnishing and upholstery fabrics sold to a wide range of domestic and international customers. Our Artee Industries division is a large purchaser of acrylic staple fiber for the production of yarns used in these fabrics.

With the closing of Solutia Incorporated of Decatur, Alabama, we have been forced to import the acrylic fiber to continue the operation of our yarn and fabric plants. At present there is only one domestic acrylic fiber producer, Sterling Fibers. Sterling does not have manufacturing capacity to supply the needs of the industry and does not offer the variety of gel dyed acrylic staple fiber colors to meet our specific requirements. In addition to our internal production, we are purchasing acrylic yarns from other domestic spinners who also are forced to purchase fiber off shore to meet their production needs.

Certainly when there were several domestic acrylic fiber producers there was justification for duty protection. Today with only one domestic producer, who is unable to meet the needs of the market, duties on acrylic staple fibers hinders our ability to compete profitably in the market both here and abroad. We therefore request that these duties be removed.

We will be glad to provide any additional information possible you request.

Robert G. Culp III
Chairman

Jerald S. Owens
Vice President Product Development

Kaltex Fibers and Cydsa
Washington, DC 20007
September 2, 2005

This statement is submitted on behalf of Kaltex Fibers S.A. de C.V. ("Kaltex") and Celulosa Y Derivados S.A. de C.V. ("Cydsa") in connection with the July 25, 2005 request for public comment by the Subcommittee on Trade of the Committee on Ways & Means regarding pending duty suspension bills. Kaltex and Cydsa wish to take this opportunity to register their opposition to three pending duty suspension bills covering acrylic fiber, which were introduced on April 8 as H.R. 1534, H.R. 1535 and H.R. 1536.

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1967. Together with Sterling Fiber, Inc. of Pace, Florida, Kaltex and Cydsa are the principal North American manufacturers of acrylic fiber (Sterling also opposes H.R. 1534, H.R. 1535 and H.R. 1536, as communicated to the U.S. International Trade Commission in a statement dated June 16, 2005).

The bills of concern would suspend the U.S. most-favored-nation (MFN) rates of duty through December 31, 2008 for the three basic types of acrylic fiber as shown below:

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Kaltex and Cydsa oppose the requested duty suspensions because North American manufacturers, including Florida-based Sterling Fiber, have ample production capacity to satisfy U.S. demand for all types of acrylic fiber. Kaltex and Cydsa alone have an annual production capacity of 167,000 tons of acrylic tow, staple and top, with 107,000 tons of that capacity available for exportation to the United States. Combined with Sterling Fiber's capacity in Pace, Florida, this capacity is more than sufficient to readily replace the output from Solutia, previously the largest U.S. producer of acrylic fiber, which recently closed its Decatur, Alabama production facility.

A suspension of the MFN rates of duty on the subject categories of acrylic fiber, which range from 4.3 to 7.5 percent *ad valorem,* would have a major adverse impact on North American acrylic fiber producers by eliminating the tariff preference they have heretofore benefited from by virtue of their U.S.-based or NAFTA-eligible operations. Extending unilateral duty-free treatment to the world's largest producers of acrylic fiber, which are located primarily in the European Union and Japan, would seriously undermine the competitive position of North American suppliers.

Finally, we note that the duty impact of H.R. 1534–1536 would exceed $5 million annually. This is well above the Ways & Means Committee's threshold of $500,000 in annual duties foregone per duty suspension bill.

We appreciate this opportunity to share Kaltex and Cydsa's views on the pending duty suspension bills with the Ways & Means Trade Subcommittee. Please feel free to contact us if the Subcommittee has any questions regarding our position on this matter.

Thomas J. Scanlon
President
Benchmarks, Inc.

National Council of Textile Organization
Washington, DC 20007
August 31, 2005

The Honorable Clay Shaw
Subommittee on Trade
House Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw:

I am writing to let you know of the National Council of Textile Organization's (NCTO) support of duty suspension legislation for acrylic fiber. Legislation to suspend duties on acrylic fiber was introduced by Congressman Howard Coble on April 8, 2005, and the bill numbers are H.R. 1534, H.R. 1535 and H.R. 1536.

Earlier this year, Solutia Inc. announced its departure from the acrylic fiber market as part of the company's reorganization plan. Solutia was the last remaining reliable producer of acrylic fiber in the U.S. and its exit from the market is a serious blow to U.S. textile manufacturers who use these fibers. In 2005, the U.S. market demand for acrylic fiber is estimated to be 198 million pounds.

The U.S. textile industry is already facing tremendous market pressures due to the lifting of textile and apparel quotas on January 1, 2005, and increased competition from China. If our industry is forced to absorb an eight percent average duty on imported acrylic fibers, many U.S. textile companies will be unable to compete and will be forced to exit the market for product lines that utilize these fibers. If this happens, dozens of plants and thousands of workers across the country will be adversely affected.

We understand that Congress has provided the duty suspension process to address situations such as this, and we strongly encourage a favorable report by the Committee on these bills.

Please do not hesitate to contact me if you have any questions or need additional information on this request.

Thank you for your consideration of this request.

Sincerely,

Cass Johnson
President

National Spinning Co., Inc.
Washington, North Carolina 27889
August 12, 2005

Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Re: H.R. 1534, H.R. 1535, and H.R. 1536

To the Committee:

National Spinning Co., Inc. is one of the largest, if not *the* largest, purchasers of acrylic tow and staple in the United States. These acrylic raw materials are used to produce yarns in our North Carolina spinning, dyeing, and packaging facilities employing approximately 1,000 people. Our products are sold to a diverse range of domestic and international customers.

At present there is only one domestic acrylic fiber producer, Sterling Fibers. Sterling does not have adequate manufacturing capacity to supply the quantity nor the range of acrylic raw materials National Spinning requires to meet the needs of its customers. Therefore, since Solutia Incorporated of Decatur, Alabama filed for bankruptcy and subsequently closed its manufacturing facilities producing acrylic fibers, National has been forced to import acrylic raw materials to operate our plants and support market demand.

Previously, there were several domestic acrylic raw material producers, therefore plausible justification for duty protection. With only one local producer today however, *a producer unable to meet the needs of the local market,* duties on imported acrylic tow and staple efface our competitiveness and profitability. It is for these reasons that we request that duties be removed.

Among the products Sterling Fibers is unable to supply are dry spun, bi-component, acid-dyeable, and optically brightened fibers. In addition, Sterling indicates they are *not* in a position to offer National the volume of commodity fibers required to operate our plants.

We would be happy to provide you with additional information or details as necessary.

In conclusion, we urge you to lift the duties on acrylic tow, staple, and intermediate products immediately. This action will preserve U.S. jobs, boost our nation's competitiveness, and aid U.S. economic growth. Please feel free to contact me for any reason.

Sincerely,

James Chesnutt
President/CEO

Patrick Yarn Mills, Inc.
Kings Mountain, North Carolina 28086
August 25, 2005

The Honorable Clay Shaw
Subcommittee on Trade
House Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

Chairman Shaw,

I am writing to inform you of our company's support of duty suspension legislation for acrylic fiber. Legislation to suspend duties on acrylic fiber was introduced by Congressman Howard Coble on April 8, 2005 and the bill numbers are H.R. 1534, H.R. 1535 and H.R. 1536.

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The U.S textile industry is already facing tremendous market pressures due to the lifting of textile and apparel quotas on January 1, 2005 and increased unfair competition from China. It is imperative that the eight percent duty on acrylic fibers be lifted so we can compete within the market. If not, many plants and thousands of workers across the country will be adversely affected.

We understand that Congress has provided the duty suspension process to address situations such as this, and we strongly recommend a favorable report by the Committee on these bills.

Thank you for your consideration and please do not hesitate to contact me if you have any questions or need additional information on this request.

Gilbert Patrick
President

Quaker Fabric Corporation of Fall River
Fall River, Massachusetts 02721
August 30, 2005

The Honorable Clay Shaw
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw:

I am writing to let you know of our company's support of duty suspension legislation for acrylic fiber. Legislation to suspend duties on acrylic fiber was introduced by Congressman Howard Coble on April 8, 2005, and the bill numbers are H.R. 1534, H.R. 1535 and H.R. 1536. In addition, Congressman Barney Frank introduced H.R. 2591 to suspend duties on certain acrylic yarns, at our request, and passage of this additional bill is also very important to us.

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Thank you for your consideration of this request.

Sincerely,

Larry A. Liebenow
President and CEO

Statement of Paul Saunders, Sterling Fibers, Pace, Florida

- Solutia, the largest U.S. producer of acrylic fiber, in January, 2005 announced a shutdown of its production in Decatur, AL, leaving *Sterling Fibers, Inc. as the only American producer of acrylic fiber. We have 80 employees at our plant in Pace, FL.*
- *Sterling Fibers has a current capacity of 30 million lbs of annual production of acrylic fiber,* with *plans to expand to as much as 60 million lbs* in the immediate future if demand warrants the necessary investment.
- *Sterling can produce all the basic types of acrylic fiber needed in the American market.* However, we face the same array of unfair international competition and trading practices that drove all of our domestic competition out of business. Assuming new U.S. trade policies do not add to the existing disadvantages we are confident about our ability to continue supplying the domestic market.
- *The international market for acrylic fiber is laced with direct and indirect foreign government support for our competitors,* including tariffs much higher than the U.S. levels and a myriad of other trade distorting practices that disadvantage our position. For example, China, the world's largest market for acrylic fiber, is an aggressive market manipulator, employing centralized fiber procurement strategies that regularly and significantly distort the global market.
- *The 4.3% U.S. tariff on acrylic staple fiber is the lowest in any significant market in the world.* Its unilateral suspension would be an unfair and unwarranted imposition on Sterling Fiber, completely exposing the American market we serve to foreign government-assisted competition without compensating reciprocity.
- Sterling Fibers currently sells our CFF acrylic fibers into India, China, Brazil, Korea, Japan and several European countries and pays a duty into all of them. The unilateral give-away of the U.S. tariff leaves us with no reciprocal tariff reduction by any of these countries.
- Accordingly, Sterling Fiber, Inc. requests *withdrawal of the tariff suspension proposals that unfairly will disadvantage the only remaining viable U.S. production of acrylic fiber.*
- *NOTE: Sterling Fiber, Inc offers no objection to the temporary suspension of tariffs on modacrylic fiber. To the best of our knowledge, after Solutia's shutdown this product will no longer be produced in the U.S.*

Association of Georgia's Textile, Carpet and Consumer Products Manufacturers
Atlanta, Georgia 30303
September 2, 2005

Chairman Clay Shaw
Subcommittee on Trade
Committee on Ways and Means
1110 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw:

As President of GTMA: The Association of Georgia's Textile, Carpet and Consumer Product Manufacturers, I would like to express our association's strong support for the above bills, currently under review by your office.

In the absence of a reliable source of quality acrylic fiber in this hemisphere, our member companies are forced to import these materials from producers in Turkey and the United Kingdom. The duties incurred as a result of this forced importation

are very significant and serve to adversely affect Georgia textile producers' competitiveness in the marketplace. With the textile industry already suffering severe market disruption, these additional costs cannot be passed along to consumers and therefore make further job losses likely.

Georgia producers using acrylic fibers require shipments in sufficient quantity and quality to assure that production needs will be met. There is no longer a source who can meet these requirements without incurring tariffs. We therefore believe that the suspension of duty for acrylic fiber is appropriate and urge the United States International Trade Commission to give favorable consideration to these bills in an expedited manner.

Thank you for your support of the American textile industry.

G.L. Bowen III

Coats & Clark
Albany, Georgia 31705
August 12, 2005

House, Ways and Means Committee
U.S. House of Representatives
1102 Longworth House Office Bldg.
Washington, DC 20515

Re: H.R. 1534, H.R. 1535 and H.R. 1536
Duty Suspension—Acrylic Fiber

Dear Committee Member:

I am writing to let you know of our company's support of duty suspension legislation for acrylic fiber. Legislation to suspend duties on acrylic fiber was introduced by Congressman Howard Coble on April 8, 2005, and the bill numbers are H.R. 1534, H.R. 1535 and H.R. 1536.

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Please do not hesitate to contact us if you have any questions or need additional information on this request.

Thank you for your consideration of the request.

Sincerely,

Audie McDearis
V.P. Supply Chain

Culp Upholstery & Artee Industries
Burlington, North Carolina 27215
August 22, 2005

Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

To the Committee:

Culp Inc. is one of the largest users of acrylic fiber in home furnishing and upholstery fabrics sold to a wide range of domestic and international customers. Our

Artee Industries division is a large purchaser of acrylic staple fiber for the production of yarns used in these fabrics.

With the closing of Solutia Incorporated of Decatur, Alabama, we have been forced to import the acrylic fiber to continue the operation of our yarn and fabric plants. At present there is only one domestic acrylic fiber producer, Sterling Fibers. Sterling does not have manufacturing capacity to supply the needs of the industry and does not offer the variety of gel dyed acrylic staple fiber colors to meet our specific requirements. In addition to our internal production, we are purchasing acrylic yarns from other domestic spinners who also are forced to purchase fiber off shore to meet their production needs.

Certainly when there were several domestic acrylic fiber producers there was justification for duty protection. Today with only one domestic producer, who is unable to meet the needs of the market, duties on acrylic staple fibers hinders our ability to compete profitably in the market both here and abroad. We therefore request that these duties be removed.

We will be glad to provide any additional information possible you request.

Robert G. Culp III
Chairman

Jerald S. Owens
Vice President Product Development

Kaltex Fibers and Cydsa
Washington, DC 20007
September 2, 2005

This statement is submitted on behalf of Kaltex Fibers S.A. de C.V. ("Kaltex") and Celulosa Y Derivados S.A. de C.V. ("Cydsa") in connection with the July 25, 2005 request for public comment by the Subcommittee on Trade of the Committee on Ways & Means regarding pending duty suspension bills. Kaltex and Cydsa wish to take this opportunity to register their opposition to three pending duty suspension bills covering acrylic fiber, which were introduced on April 8 as H.R. 1534, H.R. 1535 and H.R. 1536.

Kaltex and Cydsa are major North American producers of the acrylic fiber covered by the subject duty suspension bills. The two companies are headquartered in Mexico, with Kaltex maintaining acrylic fiber manufacturing operations in Altamira, Tamaulipas since 1985 and Cydsa producing acrylic fiber in El Salto, Jalisco since 1967. Together with Sterling Fiber, Inc. of Pace, Florida, Kaltex and Cydsa are the principal North American manufacturers of acrylic fiber (Sterling also opposes H.R. 1534, H.R. 1535 and H.R. 1536, as communicated to the U.S. International Trade Commission in a statement dated June 16, 2005).

The bills of concern would suspend the U.S. most-favored-nation (MFN) rates of duty through December 31, 2008 for the three basic types of acrylic fiber as shown below:

H.R. 1534: Acrylic or modacrylic staple fibers, not carded, combed, or otherwise processed for spinning ("top") as provided for under HTS 5503.30.00;

H.R. 1535: Acrylic or modacrylic filament tow ("tow") as provided for under HTS 5501.30.00; and

H.R. 1536: Acrylic or modacrylic staple fibers, carded, combed, or otherwise processed for spinning ("staple") as provided for under HTS 5506.30.00.

Kaltex and Cydsa oppose the requested duty suspensions because North American manufacturers, including Florida-based Sterling Fiber, have ample production capacity to satisfy U.S. demand for all types of acrylic fiber. Kaltex and Cydsa alone have an annual production capacity of 167,000 tons of acrylic tow, staple and top, with 107,000 tons of that capacity available for exportation to the United States. Combined with Sterling Fiber's capacity in Pace, Florida, this capacity is more than sufficient to readily replace the output from Solutia, previously the largest U.S. producer of acrylic fiber, which recently closed its Decatur, Alabama production facility.

A suspension of the MFN rates of duty on the subject categories of acrylic fiber, which range from 4.3 to 7.5 percent *ad valorem,* would have a major adverse impact on North American acrylic fiber producers by eliminating the tariff preference they have heretofore benefited from by virtue of their U.S.-based or NAFTA-eligible operations. Extending unilateral duty-free treatment to the world's largest producers of acrylic fiber, which are located primarily in the European Union and Japan, would seriously undermine the competitive position of North American suppliers.

Finally, we note that the duty impact of H.R. 1534–1536 would exceed $5 million annually. This is well above the Ways & Means Committee's threshold of $500,000 in annual duties foregone per duty suspension bill.

We appreciate this opportunity to share Kaltex and Cydsa's views on the pending duty suspension bills with the Ways & Means Trade Subcommittee. Please feel free to contact us if the Subcommittee has any questions regarding our position on this matter.

Thomas J. Scanlon
President
Benchmarks, Inc.

National Council of Textile Organization
Washington, DC 20007
August 31, 2005

The Honorable Clay Shaw
Subommittee on Trade
House Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw:

I am writing to let you know of the National Council of Textile Organization's (NCTO) support of duty suspension legislation for acrylic fiber. Legislation to suspend duties on acrylic fiber was introduced by Congressman Howard Coble on April 8, 2005, and the bill numbers are H.R. 1534, H.R. 1535 and H.R. 1536.

Earlier this year, Solutia Inc. announced its departure from the acrylic fiber market as part of the company's reorganization plan. Solutia was the last remaining reliable producer of acrylic fiber in the U.S. and its exit from the market is a serious blow to U.S. textile manufacturers who use these fibers. In 2005, the U.S. market demand for acrylic fiber is estimated to be 198 million pounds.

The U.S. textile industry is already facing tremendous market pressures due to the lifting of textile and apparel quotas on January 1, 2005, and increased competition from China. If our industry is forced to absorb an eight percent average duty on imported acrylic fibers, many U.S. textile companies will be unable to compete and will be forced to exit the market for product lines that utilize these fibers. If this happens, dozens of plants and thousands of workers across the country will be adversely affected.

We understand that Congress has provided the duty suspension process to address situations such as this, and we strongly encourage a favorable report by the Committee on these bills.

Please do not hesitate to contact me if you have any questions or need additional information on this request.

Thank you for your consideration of this request.

Sincerely,

Cass Johnson
President

National Spinning Co., Inc.
Washington, North Carolina 27889
August 12, 2005

Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Re: H.R. 1534, H.R. 1535, and H.R. 1536

To the Committee:

National Spinning Co., Inc. is one of the largest, if not *the* largest, purchasers of acrylic tow and staple in the United States. These acrylic raw materials are used to produce yarns in our North Carolina spinning, dyeing, and packaging facilities employing approximately 1,000 people. Our products are sold to a diverse range of domestic and international customers.

At present there is only one domestic acrylic fiber producer, Sterling Fibers. Sterling does not have adequate manufacturing capacity to supply the quantity nor the range of acrylic raw materials National Spinning requires to meet the needs of its customers. Therefore, since Solutia Incorporated of Decatur, Alabama filed for bankruptcy and subsequently closed its manufacturing facilities producing acrylic fibers, National has been forced to import acrylic raw materials to operate our plants and support market demand.

Previously, there were several domestic acrylic raw material producers, therefore plausible justification for duty protection. With only one local producer today however, *a producer unable to meet the needs of the local market,* duties on imported acrylic tow and staple efface our competitiveness and profitability. It is for these reasons that we request that duties be removed.

Among the products Sterling Fibers is unable to supply are dry spun, bi-component, acid-dyeable, and optically brightened fibers. In addition, Sterling indicates they are *not* in a position to offer National the volume of commodity fibers required to operate our plants.

We would be happy to provide you with additional information or details as necessary.

In conclusion, we urge you to lift the duties on acrylic tow, staple, and intermediate products immediately. This action will preserve U.S. jobs, boost our nation's competitiveness, and aid U.S. economic growth. Please feel free to contact me for any reason.

Sincerely,

James Chesnutt
President/CEO

Patrick Yarn Mills, Inc.
Kings Mountain, North Carolina 28086
August 25, 2005

The Honorable Clay Shaw
Subcommittee on Trade
House Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

Chairman Shaw,

I am writing to inform you of our company's support of duty suspension legislation for acrylic fiber. Legislation to suspend duties on acrylic fiber was introduced by Congressman Howard Coble on April 8, 2005 and the bill numbers are H.R. 1534, H.R. 1535 and H.R. 1536.

In January of this year Solutia Inc. closed it's USA acrylic fiber operations as part of the company's reorganization plan. Solutia was the last remaining reliable producer of acrylic fiber in the U.S. and its exit from this market is a serious blow to the textile manufacturers in our country.

In 2005, the U.S. usage of acrylic fiber is estimated to be 198 million pounds. The only other producer of acrylic fiber in this country is Sterling Fibers located in Pace, Florida with capabilities of producing only about 15% of this usage. Unfortunately, they are operating using mid 1950 era equipment with no modernization plans. Also, our facilities use modern open-end spinning equipment that requires fiber engineered for this process of which they are not able to produce.

The U.S textile industry is already facing tremendous market pressures due to the lifting of textile and apparel quotas on January 1, 2005 and increased unfair competition from China. It is imperative that the eight percent duty on acrylic fibers be lifted so we can compete within the market. If not, many plants and thousands of workers across the country will be adversely affected.

We understand that Congress has provided the duty suspension process to address situations such as this, and we strongly recommend a favorable report by the Committee on these bills.

Thank you for your consideration and please do not hesitate to contact me if you have any questions or need additional information on this request.

Gilbert Patrick
President

Quaker Fabric Corporation of Fall River
Fall River, Massachusetts 02721
August 30, 2005

The Honorable Clay Shaw
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw:

I am writing to let you know of our company's support of duty suspension legislation for acrylic fiber. Legislation to suspend duties on acrylic fiber was introduced by Congressman Howard Coble on April 8, 2005, and the bill numbers are H.R. 1534, H.R. 1535 and H.R. 1536. In addition, Congressman Barney Frank introduced H.R. 2591 to suspend duties on certain acrylic yarns, at our request, and passage of this additional bill is also very important to us.

Earlier this year, Solutia Inc. announced its departure from the acrylic fiber market as part of a broader reorganization plan. Solutia was the last remaining reliable producer of acrylic fiber in the U.S. and its exit from the market was a serious blow to U.S. textile manufacturers who use these fibers. In 2005, the U.S. market demand for acrylic fiber is estimated to be 198 million pounds.

The U.S. textile industry is already facing tremendous market pressures due to the lifting of textile and apparel quotas on January 1, 2005, and increased competition from China. If our industry is forced to absorb an eight percent average duty on imported acrylic fibers, many of us will be unable to compete and will be forced to exit the market for our product lines that utilize these fibers. If this happens, dozens of plants and thousands of workers across the country will be adversely affected.

We understand that Congress has provided the duty suspension process to address situations such as this, and we strongly encourage a favorable report by the Committee on these bills.

Please do not hesitate to contact me if you have any questions or need additional information on this request.

Thank you for your consideration of this request.

Sincerely,

Larry A. Liebenow
President and CEO

Statement of Paul Saunders, Sterling Fibers, Pace, Florida

- Solutia, the largest U.S. producer of acrylic fiber, in January, 2005 announced a shutdown of its production in Decatur, AL, leaving *Sterling Fibers, Inc. as the only American producer of acrylic fiber. We have 80 employees at our plant in Pace, FL.*
- *Sterling Fibers has a current capacity of 30 million lbs of annual production of acrylic fiber,* with *plans to expand to as much as 60 million lbs* in the immediate future if demand warrants the necessary investment.
- *Sterling can produce all the basic types of acrylic fiber needed in the American market.* However, we face the same array of unfair international competition and trading practices that drove all of our domestic competition out of business. Assuming new U.S. trade policies do not add to the existing disadvantages we are confident about our ability to continue supplying the domestic market.
- *The international market for acrylic fiber is laced with direct and indirect foreign government support for our competitors,* including tariffs much higher than the U.S. levels and a myriad of other trade distorting practices that disadvantage our position. For example, China, the world's largest market for acrylic fiber, is an aggressive market manipulator, employing centralized fiber procurement strategies that regularly and significantly distort the global market.
- The 4.3% U.S. tariff on acrylic staple fiber is the lowest in any significant market in the world. Its unilateral suspension would be an unfair and unwarranted imposition on Sterling Fiber, completely exposing the American market we serve to foreign government-assisted competition without compensating reciprocity.

- Sterling Fibers currently sells our CFF acrylic fibers into India, China, Brazil, Korea, Japan and several European countries and pays a duty into all of them. The unilateral give-away of the U.S. tariff leaves us with no reciprocal tariff reduction by any of these countries.
- Accordingly, Sterling Fiber, Inc. requests *withdrawal of the tariff suspension proposals that unfairly will disadvantage the only remaining viable U.S. production of acrylic fiber.*
- *NOTE: Sterling Fiber, Inc offers no objection to the temporary suspension of tariffs on modacrylic fiber. To the best of our knowledge, after Solutia's shutdown this product will no longer be produced in the U.S.*

LANXESS Corporation,
Pittsburgh, Pennsylvania 15275
August 18, 2005

To Whom It May Concern,

LANXESS Corporation is in support of H.R. 1715—A bill to reduce until December 31, 2008, the duty on PDCB (p-Dichlorobenzene), a key raw material used in manufacturing plastic. If this bill passes, it will benefit LANXESS Corporation and its customers, including Fortron Industries, a joint venture company of Celanese/Ticona and Kureha Chemical Industries.

Published market research suggests that the only domestic producer of p-Dichlorobenzene lacks sufficient manufacturing capacity to meet current demand or support future growth in the United States.

In 2004, LANXESS Corporation employed about 2,100 persons in the United States.

LANXESS Corporation was formed when the Bayer Group combined most of its chemical businesses and large segments of its polymer activities. The company began operating as a legal entity in the United States on July 1, 2004. LANXESS Corporation is a member of the German LANXESS–Group that was spun-off from Bayer in January 2005.

The LANXESS–Group manufactures high-quality products in the areas of chemicals, synthetic rubber and plastics. The companies' portfolio comprises basic and fine chemicals, color pigments, plastics, fibers, synthetic rubber and rubber chemicals, leather, textile processing chemicals, paper chemicals, material protection products and water treatment products.

If I can answer any questions or otherwise assist in this matter, please do not hesitate to contact me by phone at 412–809–3666 or by e-mailing me at jamie.schaeffer@lanxess.com.

Yours sincerely,

Jamie B. Schaeffer
International Trade and Compliance

PPG Industries, Inc.
Monroeville, Pennsylvania 15146
August 19, 2005

Honorable E. Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways & Means
1102 Longworth House Office Building
Washington D.C. 20515

I am writing to file PPG Industries, Inc.'s (PPG) objection to the provision in H.R. 1715 to reduce the import duty on para dichlorobenzene (para). PPG manufactures para at our facility in New Martinsville, West Virginia. Para is used to manufacture engineered plastics, in deodorant blocks, moth prevention and other applications. Its use in the deodorant application has been declining in recent years due to regulations and increasing manufacturing costs. However, para use in plastics manufacturing is growing as these plastics offer reduced weight and thus increased energy efficiency in automotive and other applications.

PPG has current capacity to meet nearly 70% of the U.S. demand for para. We have the technology to increase capacity to cover a vast majority of the U.S. demand. In prior years, there were other U.S. manufacturers of para; however, they have exited the business; Metachem in 2002 and Solutia in 2004.

PPG does not import para, however, others have imported to the U.S. market for many years. In fact, imports have been taking an increasing share of the U.S. market since 2000. At current duty, para imports have increased 300%: from 12% of U.S. demand in 2000 to 40% of U.S. demand in 2004. Imports are projected to rise again in 2005. This growth has occurred even when U.S. plants are operating at far less than full capacity, indicating that imported para, including duty, is priced sufficiently below U.S. producer prices to gain market share.

PPG objects to the duty reduction provision on para on the basis that there is sufficient domestic capacity to meet demand. Imports have continued to increase at the current duty levels and any reduction or elimination of the duty will further promote imports. This will threaten the viability of PPG as the last U.S. producer and will encourage the exportation of good-paying U.S. manufacturing jobs to Asia. In addition, a duty reduction, will give those buyers using domestic supply a competitive disadvantage to those using imported supply.

Thank you for your consideration. Please feel free to contact me if you have any questions.

Michael H. McGarry
Vice President

Sony Electronics Inc.
Park Ridge, New Jersey 07656
August 26, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Ways and Means Subcommittee on Trade
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw:

On behalf of Sony Electronics Inc., one of the last remaining producers of television sets in the United States, I thank you for the opportunity to submit comments in support of the captioned duty suspension bill. This legislation would suspend temporarily the duty on Liquid Crystal Device (LCD) panel assemblies for use in the production of LCD projection type televisions.

Sony Electronics Inc. strongly advocates passage of this legislation as a means to promote tariff equality between television producers in Mexico and those in the U.S. who are struggling to survive. Beginning on the following page is a Statement in Support of the subject legislation.

Should you have any questions about this submission, please do not hesitate to contact me.

David Newman
Senior Counsel

The purpose of the Liquid Crystal Device ("LCD") Panel Assembly For Projection (also known as "PJ") Televisions Temporary Duty Suspension legislation is to save manufacturing jobs in the United States. Right now, U.S. television manufacturing is under siege from foreign competition. In order for the industry to remain viable it must convert to the manufacture of advanced display TV's that are not as price point sensitive as the cheaper TV's produced in countries such as China. There is a fledgling business of manufacturing advanced display televisions in the U.S., but it is in danger of premature collapse. The LCD projection TV business, though very young, is in danger of collapse. Duty suspension for LCD panel assemblies for PJ TV's will provide a sustaining incentive to maintain and grow local production.

Background

LCD panel assemblies are a critical input in the production of LCD PJ TV's. However, **these LCD panel assemblies are not produced in the U.S.** and must be procured from foreign sources in order to assemble television sets in the U.S. Currently, the tariff provision for these inputs 9013.80.9000 HTSUS, dutiable at 4.5% ad valorem.

This provision covers "Liquid crystal devices not constituting articles provided for more specifically in other headings . . . other devices, appliances and instruments; other."

About LCD Panel Assemblies For Projection Type Televisions

Liquid crystal device panel assemblies for PJ TV's consist of a liquid crystal layer sandwiched between two sheets or plates of glass or plastics. These glass sandwiches are fitted with electrodes running in rows and columns. The intersecting points of the electrodes are where individual coordinates or pixels are activated when supplied with voltage. These assemblies are incorporated in an optical block assembly that is fitted with optics and electronic circuitry. Light is polarized in the optical block, separated into three light beams representing each of the primary colors, red, green and blue. Each light beam is shone through an LCD panel assembly, one for each color, where the light is allowed to pass through or blocked at each coordinate or pixel in the LCD panel. Optics are used to recombine the light from each optical stream into the image that is ultimately projected on the viewing screen. The LCD panel assemblies may be analogized to the small monochrome CRT's used in CRT PJ TV's in that they are the light engines for the creation of video images. In the subject legislation, the panel assemblies are to be entered for use in LCD PJ TV's.

Rationale For Duty Suspension

American TV manufacturers have made Herculean efforts to squeeze costs out of production in order to remain competitive with producers in such low cost locations as China, Korea and Mexico. However, duty amounts attributable to the key inputs like the LCD panel assemblies for PJ TV's tip the scales against U.S. production.

Duty suspension for the LCD panel assemblies would help level the playing field against foreign competitors. With respect to LCD PJ TV's, under the Mexican PROSEC duty [suspension] program, LCD panel assemblies are exempted from duty in Mexico as a means to compensate for the NAFTA Article 303 duty deferral provisions which would otherwise require payment of duty upon withdrawal of the manufactured TV from a Mexican Maquiladora for export to the U.S. Furthermore, upon import into the U.S. of the complete LCD PJ TV's under NAFTA, zero duty is paid. In sum, no duty is paid on the inputs into Mexico or the finished televisions imported into the U.S. because Mexico has provided exactly the same type of duty exemption that is the subject of this bill, duty relief on critical TV manufacturing inputs.

The need for duty suspension has lately become acute because of the move to advanced technology flat panel display TV's. The production of these TV's has changed the competitive environment in which U.S. producers operate. A primary reason that large screen CRT TV manufacturing still exists in the U.S. is proximity to the major domestic markets. This has given the few remaining U.S. TV producers a transportation cost advantage for the large, heavy CRT television sets traditionally produced domestically. To date, this logistics cost advantage has helped offset the labor cost advantage enjoyed by U.S. competitors. New technology such as LCD PJ TV displays have made television sets smaller and lighter, thereby reducing the cost of shipping these TV's over long distances. In other words, U.S. producers have lost the advantage associated with being close to market. Combined with the benefits bestowed on foreign producers because of NAFTA, lower transportation costs have given Mexican producers significant cost advantage.

There Is No Domestic Source For LCD Panel Assemblies

Duty suspension for the LCD panel assemblies for PJ TV's will not harm any U.S. industries because these inputs are not produced in the U.S. On the other hand, duty suspension will create an incentive to keep TV production in the U.S., thereby also creating a demand for locally procured TV parts.

Conclusion

Today, no duty is paid on the non-North American LCD panel assemblies or the LCD TV's imported from Mexico. U.S. TV manufacturers should no longer be subject to this unfair disadvantage and should get the same duty free treatment for critical inputs that has flowed from NAFTA implementation.

Sony Electronics Inc.
Park Ridge, New Jersey 07656
August 26, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Ways and Means Subcommittee on Trade
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw:

On behalf of Sony Electronics Inc., one of the last remaining producers of cathode ray tubes ("CRT's") for television sets in the United States, I thank you for the opportunity to submit comments in support of the captioned duty suspension bill. This legislation would suspend temporarily the duty on electron guns for use in the production of high definition CRT's.

Sony Electronics Inc. strongly advocates passage of this legislation as a means to promote tariff equality between television producers in Mexico and those in the U.S. who are struggling to survive. Beginning on the following page is a Statement in Support of the subject legislation.

David Newman
Senior Counsel

The purpose of the High Definition ("HD") Electron Gun Temporary Duty Suspension legislation is to save manufacturing jobs in the United States. Right now, U.S. television manufacturing is under siege from foreign competition. In order for the industry to remain viable it must convert to the manufacture of advanced display TV's that are not as price point sensitive as the cheaper TV's produced in countries such as China. There is a struggling business of manufacturing advanced display televisions in the U.S. using the tried and true Cathode Ray Tube ("CRT"), but it is in danger of premature collapse. It is being squeezed between very low cost foreign CRT televisions and the emergence of new technology flat panel screen TV's.

The high definition (wide screen) CRT TV business is the last generation of the venerable CRT television. CRT TV production and sales will soon be overtaken by flat panel screen TV's as the latter become much cheaper to make and sell. Now that flat panel screen TV's with non-NAFTA flat panel assemblies can enter the U.S. duty free from Mexico, their selling costs have already declined. Duty suspension for electron guns for high definition CRT TV's will provide an incentive to sustain local production of high definition CRT's and the TV's made with them.

Background

Direct View CRT TV's have had several distinct advantages over other technologies, including flat panel technologies such as plasma. They offer contrast, black level and viewing angle superiority. Direct View TV's also have the best record of long term reliability. In the new wide screen format, these advantages lend themselves well to high definition TV viewing. On the other hand, CRT TV's are very large and bulky. Traditional CRT's were not made in large projection television sizes because TV glass is incredibly heavy. A 40 inch Direct View TV weighs over 300 pounds and requires three people to deliver to a customer. Even a 36 inch TV weighs in at well over 200 pounds.

Direct view flat panel screen TV's, sleek and light, were never in the same class or kind and never competed with CRT TV's. For one thing, they were extremely expensive. But now, their prices are dropping dramatically. Even direct view LCD TV prices are dropping, as panel manufacturers are able to produce more large sized panels out of a single sheet of glass. Second, flat panel screen televisions were not as bright. Nor did they have a record of reliability. This has begun to change as the technology is refined. All of the North American production of direct view LCD TV's is performed in Mexico as is virtually all production of plasma TV's. The reason for this is not lower labor costs alone. It is also lower duty costs because of NAFTA and Mexican government initiatives, as will be explained below.

On the other end of the competitive spectrum, because the cost of producing the mature CRT technology continues to drop, the sets have become more accessible and the market continues to be flooded by foreign competitors, accelerating price erosion. In North America, virtually all CRT TV production is in Mexico, again for reasons that include NAFTA and Mexican government programs that promote its domestic industry. Only one company, Sony Electronics Inc. continues to produce televisions (without video recording or reproducing apparatus) in the U.S.

Electron guns for high definition CRT's are a critical input in the production HD CRT TV's. **These electron guns are not produced in the U.S.** and must be procured from foreign sources in order to manufacture CRT's and the television sets that contain them in the U.S. Currently, the tariff provision for these inputs 8540.91.50 HTSUS, dutiable at 5.4% ad valorem.

This provision covers "Thermionic, cold cathode or photocathode tubes (for example, vacuum or vapor or gas filled tubes, mercury arc rectifying tubes, cathode-ray tubes, television camera tubes); parts thereof: Parts: Of cathode-ray tubes: Other."

Rationale For Duty Suspension

American TV manufacturers have made Herculean efforts to squeeze costs out of production in order to remain competitive with producers in such low cost locations as China, Korea and Mexico. However, duty amounts attributable to the key inputs like the electron guns tip the scales against U.S. production.

Duty suspension of the high definition electron guns would help level the playing field against foreign competitors. With respect to competing televisions of all technologies, under the Mexican PROSEC duty [suspension] program, key inputs are exempted from duty in Mexico as a means to compensate for the NAFTA Article 303 duty deferral provisions which would otherwise require payment of duty upon withdrawal of the manufactured TV from a Mexican Maquiladora for export to the U.S. Furthermore, upon import into the U.S. of these TV's under NAFTA, zero duty is paid. In sum, no duty is paid on the inputs into Mexico or the finished televisions imported into the U.S. because Mexico has provided exactly the same type of duty exemption that is the subject of this bill, duty relief on critical TV manufacturing inputs.

Though the duty savings to be achieved through this legislation will be quite modest on a per unit basis (less than a dollar per TV), every dollar saved by a U.S. manufacturer is significant to the viability and preservation of its plant and manufacturing jobs. The news has been full of articles about the steady decline of the U.S. TV industry. Fierce foreign competition has forced the closing and scaling back of numerous facilities and manufacturing lines, including CRT glass and CRT production facilities.

Continued U.S. TV production is dependent on even small cost savings. Further, these savings can translate into the preservation of production of other TV products because retention of wide screen TV production allows fixed cost allocation across a wider range of products. If a U.S. producer loses individual lines, like high definition direct view CRT TV production, the plant's fixed cost burden falls on fewer products. This is how cost competitiveness and ultimately production is lost to foreign competitors.

There Is No Domestic Source For HD Electron Guns

Duty suspension for the HD electron guns will not harm any U.S. industries because these inputs are not produced in the U.S. On the other hand, duty suspension will create an incentive to keep TV production in the U.S., thereby also creating a demand for locally procured TV parts.

Conclusion

Today, no duty is paid on the non-North American inputs for TV's imported from Mexico. U.S. TV manufacturers should no longer be subject to this unfair disadvantage and should get the same duty free treatment for critical inputs that has flowed from NAFTA implementation.

Sony Electronics Inc.
Park Ridge, New Jersey 7656
August 26, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Ways and Means Subcommittee on Trade
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw:

On behalf of Sony Electronics Inc., one of the last remaining producers of television sets in the United States, I thank you for the opportunity to submit comments in support of the captioned duty suspension bill. This legislation would suspend temporarily the duty on Liquid Crystal Device (LCD) panel assemblies for use in the production of LCD direct view televisions.

Sony Electronics Inc. strongly advocates passage of this legislation as a means to promote tariff equality between television producers in Mexico and those in the U.S. who are struggling to survive. Beginning on the following page is a Statement in Support of the subject legislation.

David Newman
Senior Counsel

The purpose of the Liquid Crystal Device ("LCD") Panel Assembly Temporary Duty Suspension legislation is to save manufacturing jobs in the United States. Right now, U.S. television manufacturing is under siege from foreign competition. In order for the industry to remain viable it must convert to the manufacture of advanced display TV's that are not as price point sensitive as the cheaper TV's produced in countries such as China. There is a fledgling business of manufacturing advanced display televisions in the U.S., but it is in danger of premature collapse. The LCD direct view TV business, the future of direct view TV in the U.S. has not even sprouted domestic roots. Duty suspension for LCD panel assemblies will provide a sustaining incentive to grow local production.

Background

LCD panel assemblies are a critical input in the production of LCD TV's. However, **these LCD panel assemblies are not produced in the U.S.** and must be procured from foreign sources in order to assemble television sets in the U.S. Currently, the tariff provisions and duty rates for these inputs are as follows:

LCD Panel Assemblies For Direct View Televisions—9013.80.9000, HTSUS, dutiable at 4.5% ad valorem.

This provision covers "Liquid crystal devices not constituting articles provided for more specifically in other headings . . . other devices, appliances and instruments; other."

About LCD Panel Assemblies

Liquid crystal device panel assemblies consist of a liquid crystal layer sandwiched between two sheets or plates of glass or plastics. These glass sandwiches, in their typical condition as imported, are also fitted with electrodes running in rows and columns. The intersecting points of the electrodes are where individual coordinates or pixels are activated when supplied with voltage. They contain electrical connections and because, the electronics necessary to supply the voltages to the electrodes must be custom fitted or harmonized to their respective glass sandwiches, the electronics consisting of mounted circuit boards are assembled onto the panel as part of the assembly.

In the subject legislation, the panel assemblies are to be imported for use in LCD direct view televisions, not LCD projection televisions. The television images are displayed directly on the viewing screen, as opposed to being projected onto a screen from the rear of a TV. Direct view LCD TV's and plasma TV's are the two advance display technologies now available in very thin and light profiles. These are the TV's perhaps best known for being sleek and light enough to be hung on walls.

Rationale For Duty Suspension

American TV manufacturers have made Herculean efforts to squeeze costs out of production in order to remain competitive with producers in such low cost locations as China, Korea and Mexico. However, duty amounts attributable to the key inputs like the LCD panel assemblies tip the scales against U.S. production.

Duty suspension of the LCD panel assemblies would help level the playing field against foreign competitors. With respect to the LCD TV's, under the Mexican PROSEC duty [suspension] program, LCD panels are exempted from duty in Mexico as a means to compensate for the NAFTA Article 303 duty deferral provisions which would otherwise require payment of duty upon withdrawal of the manufactured TV from a Mexican Maquiladora for export to the U.S. Furthermore, upon import into the U.S. of the complete LCD TV's under NAFTA, zero duty is paid. In sum, no duty is paid on the inputs into Mexico or the finished televisions imported into the U.S. because Mexico has provided exactly the same type of duty exemption that is the subject of this bill, duty relief on critical TV manufacturing inputs.

The need for duty suspension has lately become acute because of the move to advanced technology flat panel display TV's. The production of these TV's has changed the competitive environment in which U.S. producers operate. A primary reason that large screen CRT TV manufacturing still exists in the U.S. is proximity to the major domestic markets. This has given the few remaining U.S. TV producers a transportation cost advantage for the large, heavy CRT television sets traditionally

produced domestically. To date, this logistics cost advantage has helped offset the labor cost advantage enjoyed by U.S. competitors. New technology such as Plasma and LCD displays have made television sets smaller and lighter, thereby reducing the cost of shipping these TV's over long distances. In other words, U.S. producers have lost the advantage associated with being close to market. Combined with the benefits bestowed on foreign producers because of NAFTA, lower transportation costs have given Mexican producers significant cost advantage.

There Is No Domestic Source For LCD Panel Assemblies

Duty suspension for the LCD panel assemblies will not harm any U.S. industries because these inputs are not produced in the U.S. On the other hand, duty suspension will create an incentive to keep TV production in the U.S., thereby also creating a demand for locally procured TV parts.

Effect On The Revenue Of The U.S.

On information and belief, there are no imports of commercial quantities of LCD panel assemblies for LCD direct view TV production. Therefore, there are no significant revenues attributable to the importation of these products. The purpose of duty suspension is to stimulate U.S. production. Without it, imports will not commence. Rather, finished LCD direct view TV's will continue to be imported, many from Mexico duty free under NAFTA.

Conclusion

Today, no duty is paid on the non-North American LCD panel assemblies or the LCD TV's imported from Mexico. U.S. TV manufacturers should no longer be subject to this unfair disadvantage and should get the same duty free treatment for critical inputs that has flowed from NAFTA implementation.

Chemtura
Middlebury, Connecticut 06749
September 2, 2005

David Kavanaugh
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Kavanaugh:

Re: HR 1782 and 2056

Chemtura is strongly opposed to the proposal to remove duties on the following products:

- Palmitic Acid (HR 1782)
- Palm fatty acid distillates (HR 2056)

Chemtura manufactures approximately 200MM lb/yr of various fatty acids, including palm derived and coconut derived products, in our Memphis, Tennessee plant. This product is chemically converted into amides, stearates and esters which are used as additives for plastics and for other markets, and also sold for use as chemical intermediates in the U.S. Chemtura is one of four U.S. based manufacturers of these products.

Competition from low cost, Asian sources has put a significant strain on U.S. based Oleochemicals producers. Elimination of this duty into the U.S. will result in reduced production and employment at the Memphis facility.

In addition, Biodiesel legislation offering subsidies for production of biodiesel in the U.S. already has significantly impacted profitability of the Oleochemicals sector by introducing new supplies of glycerin, a byproduct of both biodiesel and fatty acid manufacture. This new supply of glycerin has reduced the selling price of this byproduct as much as 40% over the last 12 months, unfavorably impacting the cost of fatty acid production.

While the biodiesel legislation has been approved for the greater good of the country's energy position, the combined impact of elimination of the duties and biodiesel

will significantly impact our ability to continue operating and could result in the loss of over 325 U.S. jobs at our Memphis facility.

Sincerely,

Elizabeth Thomasino
Manager, Imports and Customs

Lloyd N. Moon
Vice President, Government and Industry Affairs

Montana Cattlemen's Association
Billings, Montana 59107
September 2, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

Montana Cattlemen's Association (MCA) is a state wide organization representing over 1,300 cattle producers and their families. Our producer members are directly impacted by the effects of foreign imports displacing domestic production and having direct impact on our domestic prices.

Montana Cattlemen's Association welcomes the opportunity to comment on the bills being considered for inclusion in the miscellaneous package, in particular H.R. 1802, "A bill to amend the Tariff Act of 1930 with respect to the marking of imported live bovine animals," H.R. 1121, "A bill to repeal section 754 of the Tariff Act of 1930," and H.R. 2473, "A bill to amend the Tariff Act of 1930 relating to determining the all-others rate in antidumping cases."

H.R. 1802 is an important bill and one that should not attract significant controversy. MCA believes it makes sense to include this bill in the miscellaneous trade package. Federal law already requires that, in general, imports must be marked with their country of origin. For many years, however, the Treasury Department has exempted livestock by including it on its "J-list" (19 C.F.R. §134.33) of imports that need not be marked or branded pursuant to the requirements of the Trade Act of 1930. Livestock should not be exempted from those requirements. It is not impractical to require imported livestock to be indelibly marked, and it is important to require marking, not only for tracking and identification, but to demonstrate the commitment of the United States to compliance with established U.S. rules on inspection and testing.

The miscellaneous trade bill has been used in the past to amend the Tariff Act of 1930 to specify particular imports for which country-of-origin marking is expressly required. For example, the marking of certain silk products was specifically required by the Miscellaneous Trade and Technical Corrections Act of 1999, and the marking of certain coffee and tea products as well as the marking of spices was explicitly required by the Miscellaneous Trade and Technical Corrections Act of 1996. Like these prior amendments, H.R. 1802 logically should be included in the miscellaneous trade package, and MCA urges its inclusion and enactment.

H.R. 1121 and H.R. 2473, however, are not well suited for inclusion in the miscellaneous trade package. These bills are likely to attract significant controversy and would constitute major changes to U.S. trade remedy laws. MCA supports maintaining strong and effective trade laws. Such laws are necessary to ensure a level playing field for U.S. ranchers, cattlemen, and farmers, as well as U.S. manufacturers and workers. In a fair market, U.S. producers are second to none. When foreign competitors flood the U.S. market with dumped and subsidized goods, however, the trade laws must be in place to provide a remedy for injury caused by unfairly traded imports. MCA believes it would be inappropriate to use the miscellaneous trade bill to weaken those laws, but that will be the effect if H.R. 1121 and H.R. 2473 are included in the package.

H.R. 1121 proposes to repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"). CDSOA is a program that distributes antidumping and countervailing (AD/CVD) duties when dumping or subsidization continues after AD/CVD orders are imposed. The existence of continued dumping and subsidization indicates that fair market conditions have not been restored and that the industry that was

found to be injured by dumped or subsidized imports is not getting the remedy intended by the statute. CDSOA funds are distributed to certain domestic parties for eligible expenditures on plant, equipment, and people, that is, for reinvesting in their businesses. The program is funded using duties collected on dumped and subsidized imports. If dumping or subsidization stops after an order is issued, there are no funds to distribute. CDSOA does not change how dumping margins or subsidy rates are calculated or how much duty must be paid. The program simply distributes moneys pursuant to generally applicable criteria when unfair trade practices do not cease. CDSOA enjoys wide bi-partisan support among Members of Congress and the public, and any legislation to repeal it would attract substantial controversy and strong opposition. Thus, MCA believes that H.R. 1121 should not be included in the miscellaneous trade bill.

H.R. 2473 proposes to amend the antidumping law to delete the word "entirely" from subparagraphs (A) and (B) of section 735(c)(5) of the Tariff Act of 1930. While this may appear to be a small change, in reality, if enacted, H.R. 2473 could prevent Commerce from effectively enforcing the antidumping law. H.R. 2473 would make it virtually impossible for Commerce to calculate "all-others" dumping margins for non-investigated exporters in most cases. The "all-others" rate, which is applied to non-investigated exporters, is a weighted average of dumping margins calculated for individually investigated exporters. Margins based *entirely* on "facts available" data are excluded from the average under the current law. "Facts available" data is information Commerce uses as a substitute for actual company-specific data when a respondent company does not supply all the data necessary to calculate a dumping margin. Margins that are based only in part on facts available are used to calculate the "all-others" rate because many dumping margins calculated by Commerce are based on at least some "facts available" data.

H.R. 2473 would require Commerce to exclude all dumping margins based on any amount of "facts available" information from the "all-others" rate calculation. The effect of this would be, in most cases, that Commerce would be left with no margins to calculate an "all-others" rate. This would result in serious administrative difficulties for the Department, which would consequently weaken the antidumping law. Hence, H.R. 2473 is likely to attract significant controversy and would likely not be administrable by the Commerce Department.

MCA is also concerned that H.R. 1121 and H.R. 2473 appear to be efforts to implement adverse decisions of panels and the Appellate Body of the World Trade Organization ("WTO"). The miscellaneous trade bill is not an appropriate means by which to implement such decisions and enact changes in major U.S. trade laws. Furthermore, Congress and the Administration have been critical of overreaching by WTO panels and the Appellate Body and have expressed concern that the decisions on CDSOA and the "all-others" rate, in particular, created new obligations that the United States never agreed to and which are not found in the text of any WTO Agreement. In addition, Congress has previously directed the Administration to negotiate a resolution of these disputes at the WTO. The Administration is currently engaged in the Doha Round rules negotiations and should be allowed to complete that process, which ought to result in a correction of the problems created by panel and Appellate Body overreaching.

Because H.R. 1121 and H.R. 2473 are both controversial bills that are likely to draw strong opposition, and because their enactment would cut short the ongoing process of negotiations at the WTO, the Subcommittee should deem them inappropriate for inclusion in the miscellaneous trade package.

Again, MCA appreciates the opportunity to submit these comments and would like to thank the Subcommittee for taking into account MCA's views on the three bills discussed above.

Brett DeBruycker
President

Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of America
Billings, Montana 59107
September 2, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

The Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of America (R–CALF USA) is submitting these comments in response to the Subcommittee's request for written comments for the record from all parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. R–CALF USA is a national, non-profit organization dedicated to ensuring the continued profitability and viability of the U.S. cattle industry. R–CALF USA has more than 18,000 members, primarily cow-calf operators, cattle backgrounders, and feedlot owners, located in 47 states.

R–CALF USA welcomes the opportunity to comment on the bills being considered for inclusion in the miscellaneous package, in particular H.R. 1802, "A bill to amend the Tariff Act of 1930 with respect to the marking of imported live bovine animals."

H.R. 1802 is an important bill and one that should not attract significant controversy. R–CALF USA believes it makes sense to include this bill in the miscellaneous trade package. Federal law already requires that, in general, imports must be marked with their country of origin. For many years, however, the Treasury Department has exempted livestock by including it on its "J-list" (19 C.F.R. § 134.33) of imports that need not be marked or branded pursuant to the requirements of the Trade Act of 1930. Livestock should not be exempted from those requirements. It is not impractical to require imported livestock to be indelibly marked, and it is important to require marking, not only for tracking and identification, but to demonstrate the commitment of the United States to compliance with established U.S. rules on inspection and testing.

The miscellaneous trade bill has been used in the past to amend the Tariff Act of 1930 to specify particular imports for which country-of-origin marking is expressly required. For example, the marking of certain silk products was specifically required by the Miscellaneous Trade and Technical Corrections Act of 1999, and the marking of certain coffee and tea products as well as the marking of spices was explicitly required by the Miscellaneous Trade and Technical Corrections Act of 1996. Like these prior amendments, H.R. 1802 logically should be included in the miscellaneous trade package, and R–CALF USA urges its inclusion and enactment.

Again, R–CALF USA appreciates the opportunity to submit these comments and would like to thank the Subcommittee for taking into account R–CALF USA's views on this important bill.

Respectfully submitted,

Leo R. McDonnell
President

Continental AG
Auburn Hills, Michigan 48326
August 29, 2005

Subcommittee on Trade
Committee on Ways and Means
1104 Longworth
U.S. House of Representatives
Washington, DC 20515

Continental Automotive Systems is a major supplier of brakes, brake and chassis systems, and electronics to the automobile industry. We are a division of Continental AG, which has over 81,000 employees in 27 countries, including the United States. Among our products are brake-by-wire systems for electric and hybrid vehicles. Brake-by-wire systems are essential to take full advantage of the potential fuel savings of these vehicles. This technology allows maximum use of re-captured energy to recharge the batteries during braking.

Continental supports H.R. 1877. This bill will give economic support for production and spread of hybrid cars in the U.S. which will reduce fuel consumption and reduce the environmental impact of motor vehicles.

Thank you for the opportunity to comment on this matter.

Philip M. Headley
Chief Engineer, Advanced Technologies

Cherry Marketing Institute
Dewitt, Michigan 48820
August 10, 2005

The Honorable E. Clay Shaw
Washington, DC

Dear Congressman Shaw:

I am writing today on behalf of Michigan sweet cherry farmers who remain opposed to House Bill 1914. This proposed bill changes the way the duty is calculated on imported cherries in brine. This change would have a net result of a 40–50% reduction in the current tariff structure. This reduction would encourage more cheap cherry brine imports into the United States and displace domestically grown cherries.

In Michigan today, there are 9,000 acres of sweet cherries. Last year Michigan produced 24,700 tons of sweet cherries with 18,100 tons brined (73%). This year Michigan's crop is estimated to produce a record crop of 27,000 tons of sweet cherries, for an increase of 9% more than 2004 production. Michigan is a major producer of stem-off cherries which are sold for processing. We produce stem-off fruit because Michigan utilizes mechanical harvesters to harvest both their tart and sweet cherry crops. A typical grower will grow about 1/3 sweet cherries and 2/3 tart cherries. This production system allows growers to utilize expensive harvest equipment on two crops. Because these cherries are mechanically harvested they cannot be sold fresh. The loss of the brined cherry market would be devastating to both the sweet cherry and tart cherry industry in the state.

Michigan sweet cherry growers are strongly opposed to any reduction in the tariff structure on brine cherries. We believe it will encourage processors to buy cheap foreign cherries instead of cherries from U.S. farmers. The brine cherry market in the United States today is a very price sensitive market. It is not a big market, and is not a growth market. Given this flat market, any increase in imported brine cherries will reduce the demand for domestically produced brine cherries.

Michigan growers are also concerned about China and the impact it will have on the world market as its new sweet cherries plantings come into production. We believe sweet cherries imports from China will increase in the next five years and that it is not in the best interest of U.S. farmers to make it easier for China or Turkey to export to the U.S. market.

We urge the House Ways and Means Committee to NOT consider HR1914 to be included in the Miscellaneous Trade Bill (MTB).

Sincerely,

Philip J. Korson II
President

Tarkett, Inc.
Houston, Texas 77007

Mannington Mills, Inc.
Salem, New Jersey 08079

Armstrong World Industries, Inc.
Lancaster, Pennsylvania 17603

Congoleum Corp.
Mercerville, New Jersey 08619
September 2, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Subcommittee on Trade
Committee on Ways & Means
U.S. House of Representatives
Room 1104 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

Pursuant to the July 25, 2005, Advisory of the Subcommittee on Trade (Trade Advisory No. TR–3), requesting written comments on miscellaneous duty suspension bills, we provide these comments on behalf of Armstrong World Industries, Inc., Congoleum Corporation, Mannington Mills, Inc. and Tarkett, Inc. H.R. 1934 was introduced by Congressmen Joseph Pitts, Christopher Smith and Frank LoBiondo and would temporarily suspend duties on certain vinyl chloride-vinyl acetate copolymers through December 31, 2009.

The copolymers described in H.R. 1934 are used to produce vinyl composition floor tile ("VCT"), which is manufactured domestically by the above four companies. Recent U.S. plant closures have led to a drastic decline in the domestic availability of these copolymers. As a result, domestic flooring producers have been required to significantly increase their imports of these materials. As explained below, a temporary suspension or reduction of current Normal Trade Relations ("NTR"), duties on imports of these copolymers would be fully consistent with Congressional requirements for miscellaneous duty suspension bills. Among other things, this action would benefit our companies in their downstream U.S. production, would be consistent with Congressional revenue loss limitations, and would not be controversial or difficult to administer.

These companies are leading producers of resilient flooring products, including VCT, in the United States. Armstrong World Industries, Inc. is headquartered in Lancaster, Pennsylvania and has flooring manufacturing plants in California, Illinois, Mississippi, Oklahoma, and Pennsylvania. Congoleum Corporation is headquartered in Mercerville, New Jersey and designs and manufactures resilient flooring products in New Jersey, Pennsylvania and Maryland. Mannington Mills, Inc. is headquartered in Salem, New Jersey and produces resilient flooring products in New Jersey. Tarkett, Inc. has major U.S. flooring production facilities in Alabama, New York and Texas.

H.R. 1934 would temporarily suspend duties on the vinyl chloride-vinyl acetate copolymers described in subheading 3904.30.60 of the Harmonized Tariff Schedule of the United States ("HTSUS") (the "Copolymers"). (The CAS number for the Copolymers is 9003–22–9.) Virtually all of the suspension form of the Copolymers are used in the United States in the manufacture of flooring products. Specifically, each of our companies uses Copolymers as a key material input in the production of VCT flooring. VCT is a flooring product that is manufactured in 12" x 12" squares and commonly used in many commercial applications, including schools, hospitals and office buildings. The cost of Copolymers adds significantly to the cost of producing VCT flooring. Depending on the formulation of the specific VCT flooring product, Copolymers can represent 20 percent or more of the materials cost and about 15 percent of the total cost of VCT flooring.

In the last year, there has been a drastic decline in the availability of U.S.-produced Copolymers due to the closure of Copolymer production facilities in Pottstown, Pennsylvania (OxyChem) and Illiopolis, Illinois (Formosa Plastics). As a result of these closures, there is only one remaining domestic producer of Copolymers—a facility operated by Colorite in Burlington, New Jersey. Because this facility is capable of producing less than a quarter of U.S. demand for Copolymers, our companies must now import substantially increased supplies of Copolymers from foreign producers and anticipate that such imports will be required for the foreseeable future.

This drastic change in domestic supply conditions for Copolymers prompted our companies to seek the temporary duty suspension set forth in H.R. 1934. Before the listed companies sought this legislation, they confirmed with Mr. Dave Axmann, the General Manager of the Colorite facility, that Colorite would not oppose temporary suspension of duties on Copolymers.

Suppliers in countries afforded duty-free treatment under HTSUS 3904.30.60, including Canada, Mexico and Colombia, can supply, on a duty-free basis, a portion of the domestic flooring industry's increased demand for Copolymer imports. Our companies anticipate, however, that they will be required to make substantial imports from countries subject to the current 5.3 percent NTR duty. According to company officials, capacity limitations in current duty-free countries and demand by non-U.S. users will prevent U.S. importers from further increasing imports of Copolymers from countries that are currently afforded duty-free treatment. Thus, to meet its current and anticipated demands for Copolymers, the domestic flooring industry must now and for the foreseeable future also import substantial quantities of Copolymers from suppliers in countries subject to the current NTR duty, including Germany, Brazil, Belgium, Japan and Taiwan. The duties on these imports place an increasing and unnecessary cost on U.S. VCT flooring producers and will make it more difficult for these producers to hold down costs for their private and public sector customers.

It is also potentially significant that the Government of Canada's Department of Finance has also agreed to provide duty-free treatment for Copolymers from non-NAFTA countries to address shortfalls in supplies from duty-free suppliers in the U.S.

Our companies respectfully request that the Subcommittee on Trade include in its miscellaneous tariff legislation a temporary duty suspension or duty reduction for the imports described in H.R. 1934. The bill meets (or can be revised to meet) the criteria established by Congress for miscellaneous tariff legislation.

First, the legislation would benefit the undersigned producers of VCT flooring in the United States. As noted above, our companies use Copolymers in the downstream production of VCT flooring at their U.S. plants. The cost of Copolymers is a significant factor in the cost of VCT tile. Temporary suspension or elimination of the current NTR 5.3 percent duty on Copolymers would help promote the competitiveness of U.S. flooring production and help keep down costs for the private, institutional and public sector purchasers and users of VCT flooring.

Second, the financial impact of the bill can be tailored to comply with the $500,000 annual revenue loss limitation mandated by Congress. If the estimated revenue loss of a full suspension of NTR duties on Copolymers would exceed this limitation (as appears likely), our companies would support changing the bill to provide for a duty reduction in an amount commensurate with this limitation.

Third, the bill should attract no controversy. As noted above, Colorite, the sole remaining U.S. producer of Copolymers, has confirmed that it does not oppose this legislation. Additionally, the legislation should not adversely impact producers of Copolymers in countries currently receiving duty-free treatment. As noted above, Congressional revenue loss rules will likely require that the bill be recast as a temporary duty *reduction* rather than a full duty suspension. As a consequence of these reduced but remaining duties, our companies and any other purchasers will still have a strong incentive to purchase Copolymers from suppliers in duty-free countries or from the domestic supplier as opposed to suppliers in countries receiving temporary duty reductions. Additionally, the bill should create no difficulties for U.S. trade authorities because it clearly defines the merchandise subject to duty suspension or reduction, is easy to administer and does not operate retroactively.

For these reasons, a temporary suspension or reduction of NTR duties on Copolymers should be included in the miscellaneous duty package assembled by the Subcommittee.

Finally, we understand from recent discussions with the U.S. International Trade Commission that the Commission may propose certain revisions to the bill's technical language to improve the implementation and effectiveness of the legislation. We support the intent behind these efforts. We will review any specific proposed language changes when they are available and will provide the Subcommittee with any further views and comments on these proposed revisions.

In the meantime, if we can provide additional information, please contact the undersigned. Thank you in advance for your consideration of this important issue for our companies and their employees.

Edward F. Gerwin, Jr.

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman
Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20215

Dear Chairman Shaw:

On behalf of the American Apparel and Footwear Association—the national trade association of the apparel and footwear industries, and their suppliers—I am writing to express strong support for the following bills identified in the subject advisory.

HR 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements.

Comment: AAFA strongly supports this legislation and believes it is long overdue. The Committee for the Implementation of Textile Agreements (CITA) is responsible for far reaching decisions that deeply affect most AAFA members yet its actions are almost always taken behind closed doors with insufficient public scrutiny. This lack of transparency creates a highly unpredictable environment that is often perceived as being unfair. Recently, CITA has published guidelines to introduce some predictability into its deliberations. While we applaud those limited moves as a step in the right direction, we believe they are insufficient to provide the full accountability necessary for an intergovernmental agency which such responsibilities. Moreover, CITA has at times disregarded its own published guidelines as it has implemented China safeguard and short supply procedures. As a result, AAFA supports bringing CITA under the full jurisdiction of the Administrative Procedures Act.

HR 1121—A bill to repeal section 754 of the Tariff Act of 1930.

Comment: AAFA strongly supports the repeal of the Byrd Amendment. The Byrd legislation was enacted outside of the regular legislative process, by committees that do not enjoy primary jurisdiction over trade issues, and with no opportunity for public comment. Moreover, as has been found by the World Trade Organization (WTO), this provision puts the United States out of compliance with its WTO obligations. In fact, the European Union is currently assessing penalties on U.S. produced clothing in retaliation. Other countries have threatened to do the same. AAFA believes repeal of this abominable provision should be made a priority.

HR 1221, HR 3386, HR 3387, HR 3388, HR 3389, HR 3391, HR 3392, HR 3393, HR 3394, HR 3395, HR 3483, HR 3484, HR 3485, HR 3486, HR 3487, HR 3488, HR 3489, HR 3490, HR 3491—Duty suspensions with respect to various footwear articles. [Note: This does not include HR 3390, which we understand has been withdrawn.]

Comment: AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

HR 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.

Comment: AAFA strongly supports this legislation. Our association supported an earlier version of this legislation in the 108th Congress. This legislation would result in duty reductions for cotton fabrics that are already designated in short supply under various trade preference programs because these fabrics are unavailable in the United States and in the preference countries. Given that finished shirts may enter duty free using these fabrics, we believe it is also appropriate to permit the fabrics themselves to enter duty free. Thus, U.S. domestic manufacturers of shirts will be able to enjoy equal access to those same high quality fabrics that foreign based manufacturers enjoy.

HR 2589/HR 2590—Two bills to extend the temporary suspension of duty on certain filament yarns

Comment: AAFA strongly supports these provisions. AAFA was involved in the development of the original legislation and understand that the conditions that led to successful passage of the original legislation, including the fact that the yarns in question are not produced domestically, continue to exist. Thus, these provisions should be extended.

HR 1230—A bill to extend trade benefits to certain tents imported into the United States.

Comments: AAFA strongly supports this provision. This legislation relates to certain camping tents which are not made in the United States. Moreover, similar but slightly smaller tents, differentiated only by the fact that they are classified as "backpacking" tents, already enjoy duty free treatment. This provision would correct that anomaly.

In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment of such provisions may also facilitate proper findings of short supply for those programs, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

Brooks Brothers, Inc.
New York, New York 10017
August 19, 2005

The Honorable Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

We are writing in response to the Subcommittee's request for written comments for the record related to duty suspension proposals. Garland Shirt Company, a wholly owned subsidiary of Brooks Brothers, is a U.S. manufacturer of high quality cotton men's and boys' shirts, located in Garland, NC where we have been producing shirts for over 20 years. We write in support of H.R. 1945, a bill introduced by Representatives Simmons and Etheridge to provide temporary duty relief for very high end two-ply shirting cotton fabrics for men's shirt manufacturers and to strengthen the industry.

As a result of our trade agreements beginning with NAFTA, a tremendous disadvantage has been placed on U.S. manufacturers of high quality cotton men's and boys' shirts. While foreign makers of such shirts from many countries can import finished shirts into this country duty-free using two-ply shirting fabrics from any source, U.S. manufacturers continue to pay duties on fabric that the U.S. Congress and government have repeatedly found is no longer made in the U.S. As a result of this unintended duty inversion, the U.S. shirt manufacturing industry has suffered tremendously. The companies that remain in the U.S. produce world-renowned quality products and employ a highly skilled workforce but face duties on fabrics they rely upon while many of their foreign competitors are allowed preferential duty treatment. H.R. 1945 would help level the playing field, providing tariff relief and helping strengthen U.S. manufacturers, cotton growers and spinners.

Beginning with NAFTA, and repeated in the Caribbean Basin Initiative, the Andean Trade Preference Act, the African Growth and Opportunity Act, and most recently in the DR–CAFTA agreement, Congress has extended generous trade preferences to foreign manufacturers in these countries to import finished shirts duty-free into the United States with fabric sourced from non-agreement countries. In each case, Congress has found that this fabric, two-ply high quality cotton shirting fabric, is not manufactured in the U.S. or in any of the countries under the above agreements. The International Trade Commission and the Department of Commerce has also repeatedly found that this fabric is not available in commercially available quantities in the United States in administrative findings on the fabric when used to produce other apparel items.

H.R. 1945 provides duty relief to a narrow class of high-end two-ply cotton fabric, some of which would need to contain U.S. cotton content, imported into the U.S. for shirt making, and would also reliquidate about one third of the duties U.S. manufactures have paid since NAFTA to be used to create a program that would strengthen the U.S. industry, including the manufacturers, spinners of high end yarn, and U.S. long staple (SUPIMAO) cotton growers. We believe this aspect of the bill is entirely appropriate to correct a policy that should never have occurred. As mentioned above, CAFTA extended the same duty-free treatment to foreign manufacturers to bring finished shirts into the U.S. In fact, CAFTA went a step further, granting foreign manufacturers duty rebates for shirts entering the U.S. since January 1, 2004. If the United States is going to provide duty refunds for foreign manufacturers, it only makes sense to return duties from U.S. manufacturers that we believe should never have been collected.

H.R. 1945 will help preserve hundreds of domestic skilled jobs manufacturing dress shirts in Alabama, Pennsylvania, North Carolina, New Jersey, Tennessee and Louisiana, as well as promote employment for yarn spinners in Georgia and pima cotton growers in Texas, Arizona, New Mexico and California.

We urge the Subcommittee and the full Committee on Ways and Means to include H.R. 1945 in any miscellaneous trade and tariff and duty suspension legislation that the Committee considers. Thank you for the opportunity to comment on this matter so important to the many employees of Brooks Brothers.

Joe Dixon
V.P. Production and Sourcing

Buhler Quality Yarns Corporation
Jefferson, Georgia 30549
August 26, 2005

The Honorable Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

I am writing in response to the Subcommittee's request for written comments for the record related to duty suspension proposals. Buhler Quality Yarns Corporation is a Georgia-based, U.S. spinner of high quality, combed and ring spun, SUPIMA cotton yarns; the largest such spinner in the U.S. I write in support of H.R. 1945, a bill introduced by Representatives Simmons and Etheridge to provide temporary duty relief for very high end, shirting cotton fabrics for men's shirt manufacturers and to strengthen the industry.

As a result of our trade agreements beginning with NAFTA, a tremendous disadvantage has been placed on U.S. manufacturers of high quality cotton men's and boys' shirts. While foreign makers of such shirts from many countries can import finished shirts into this country duty-free using shirting fabrics from any source, U.S. manufacturers continue to pay duties on fabric that the U.S. Congress and government have repeatedly found is no longer made in the U.S. As a result of this unintended duty inversion, the U.S. shirt manufacturing industry has suffered tremendously. The companies that remain in the U.S. produce world-renowned quality products and employ a highly skilled workforce but face duties on fabrics they rely upon while many of their foreign competitors are allowed preferential duty treatment. H.R. 1945 would help level the playing field, providing tariff relief and helping strengthen U.S. manufacturers, cotton growers and domestic spinners such as Buhler Quality Yarns, which are exporting their domestic made pima yarns for fabric making. Those fabrics are then imported by the mentioned shirting manufacturers with duty levied upon entry into the U.S., which discriminates not only those companies importing such fabrics, but also Buhler Quality Yarns as the manufacturer of the yarns used in such fabric.

Beginning with NAFTA, and repeated in the Caribbean Basin Initiative, the Andean Trade Preference Act, the African Growth and Opportunity Act, and most recently in the

DR–CAFTA agreement, Congress has extended generous trade preferences to foreign manufacturers in these countries to import finished shirts duty-free into the

United States with fabric sourced from non-agreement countries. In each case, Congress has found that this fabric, high quality cotton shirting fabric, is not manufactured in the U.S. or in any of the countries under the above agreements. The International Trade Commission and the Department of Commerce has also repeatedly found that this fabric is not available in commercially available quantities in the United States in administrative findings on the fabric when used to produce other apparel items. Buhler Quality Yarns makes the high-end pima cotton yarn for shirting fabric, and we do not know of any production in commercially available quantities of such high end, cotton shirting fabric in the U.S.

H.R. 1945 provides duty relief to a narrow class of high-end cotton fabric, some of which would need to contain U.S. cotton content, imported into the U.S. for shirt making, and would also re-liquidate about one third of the duties U.S. manufactures have paid since NAFTA to be used to create a program that would strengthen the U.S. industry, including the manufacturers, spinners of high end yarn, and U.S. long staple (SUPIMA) cotton growers. As the largest U.S. spinner of these yarns, we would expect this legislation would increase the demand for yarn with U.S. pima cotton content. We believe the duty re-liquidation aspect of the bill is entirely appropriate to correct a policy that should never have occurred. As mentioned above, CAFTA extended the same duty-free treatment to foreign manufacturers to bring finished shirts into the U.S. In fact, CAFTA went a step further, granting foreign manufacturers duty rebates for shirts entering the U.S. since January 1, 2004. If the United States is going to provide duty refunds for foreign manufacturers, it only makes sense to return duties from U.S. manufacturers that we believe should never have been collected.

H.R. 1945 will help preserve hundreds of domestic skilled jobs manufacturing dress shirts in Alabama, Pennsylvania, North Carolina, New Jersey, Tennessee and Louisiana, as well as promote employment for yarn spinners in Georgia and pima cotton growers in Texas, Arizona, New Mexico and California.

I urge the Subcommittee and the full Committee on Ways and Means to include H.R. 1945 in any miscellaneous trade and tariff and duty suspension legislation that the Committee considers. Thank you for the opportunity to comment on this matter so important to the 135 employees of Buhler Quality Yarns Corporation.

W. Bieri
President & CEO

Gitman Brothers
New York, New York 10019
August 24, 2005

The Honorable Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

We send this strong request in support of H.R. 1945, which gives specific support and duty relief to manufacturers of men's shirting in the United States.

Since the passing of NAFTA, Caribbean Basin and Sub Sahara Africa trade bills, some country specific trade bills and now CAFTA, countries all over the world now import cotton fabrics duty free then export shirts duty free unto the United States, while *our own American factories* pay hundreds of thousands of dollars in duty to import shirting fabrics, protecting an industry (fine shirting weaving) which does not exist in the United States anymore.

We have 200 skilled artisans in a rural area of Pennsylvania making world class men's skirts and our goal is to have this factory twenty years form now, providing skilled employment to Pennsylvanians. In order to assure that, we need your help in the passage of this bill.

We invite international competition; but please level the playing field for our American manufacturing businesses.

John Minahan III
CEO/President

National Council of Textile Organizations
Washington, DC 20006
August 31, 2005

The Honorable Clay Shaw
Subommittee on Trade
House Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw:

I am writing to let you know of the National Council of Textile Organization's (NCTO) strong opposition to duty suspension legislation for woven cotton shirting fabrics. Legislation to suspend duties on woven cotton shirting fabrics was introduced by Congressman Rob Simmons (R–CT) on April 27, 2005, and the bill number is H.R. 1945. Companion legislation was introduced in the Senate by Senator Arlen Specter (R–PA) on April 6, 2005, and this bill number is S. 738.

The NCTO is an association representing the entire spectrum of the textile industry, including fibers, yarns, fabrics and industry suppliers. Many of our member companies manufacture woven cotton shirting fabrics that are used in men's and boy's shirts. This category of imports is also very import sensitive and this is why NCTO and other trade associations applied earlier this year for a safeguard to be imposed against China in men's and boys' cotton woven shirts. The Committee for the Implementation of Textile Agreements (CITA) agreed that the U.S. market in this product category was indeed being disrupted by imports from China and granted a safeguard on May 27, 2005. A major consideration in CITA's determination was the impact that China's imports of woven cotton men's and boys' shirts was having on U.S. fabric manufacturers.

We understand that there is a difference of opinion between the International Trade Commission (ITC) and the U.S. Customs Service regarding the exact fabrics that would be covered under this duty suspension. While the ITC maintains that only certain fabrics will be covered under this legislation, specifically those fabrics covered under Annex 401 of the NAFTA, the Customs Service interprets this legislation to open the floodgates to all imports of woven cotton fabrics used in the production of men's and boys' shirts. If this happens, the U.S. textile industry would be devastated. For your information, I am enclosing a copy of the comments we submitted on the China safeguard petition for men's and boys' cotton woven shirts which contains detailed information regarding U.S. production of these products (Attachment 1).

Given that there is a difference of opinion regarding which categories of cotton woven fabrics would be covered by this legislation, NCTO must strongly oppose these bills. The U.S. Customs Service will ultimately determine what imports will be covered should this legislation pass. The Customs Service has communicated with us, and I understand with the ITC as well, that it is their belief that this legislation will allow all imports of men's and boys' cotton woven shirting fabrics to enter the U.S. duty-free. As a result of this interpretation and since the U.S. government has already imposed safeguards against China in said product categories earlier this year due to the impact that imports are having on the market, we strongly encourage an unfavorable recommendation by the ITC.

The U.S. textile industry is already facing tremendous market pressures due to the lifting of textile and apparel quotas on January 1, 2005, and increased competition from China. If this industry is forced to absorb duty-free competition resulting from measures such as this, many companies will be unable to compete and will be forced to exit the market.

I understand that Congress has provided the duty suspension process to address situations where domestic capacity does not exist. As evidenced by the attached information, U.S. manufacturers produce significant quantities of these products and are capable of meeting domestic demand. As a result, we do not believe this duty suspension merits approval, and NCTO strongly encourages an unfavorable report by the Committee on these bills.

Thank you for your consideration of this request.

Sincerely,

Cass Johnson
President

Supima
Phoenix, Arizona 85040
August 22, 2005

The Honorable Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

We are writing in response to the Subcommittee's request for written comments for the record related to duty suspension proposals. The Supima organization represents premium American Pima cotton growers in four southwestern states, California, Arizona, New Mexico and Texas. American Pima cotton is known for its exceptional strength, uniformity and quality. Nationwide, American Pima cotton growers produce over $445 million worth of pima cotton.

We write in support of H.R. 1945, a bill introduced by Representatives Simmons and Etheridge to provide temporary duty relief for very high end two-ply shirting cotton fabrics for men's shirt manufacturers and to strengthen the industry, including SUPIMA cotton growers.

As a result of our trade agreements beginning with NAFTA, a tremendous disadvantage has been placed on U.S. manufacturers of high quality cotton men's and boys' shirts. While foreign makers of such shirts from many countries can import finished shirts into this country duty-free using two-ply shirting fabrics from any source, U.S. manufacturers continue to pay duties on fabric that the U.S. Congress and government have repeatedly found is no longer made in the U.S. As a result of this unintended duty inversion, the U.S. shirt manufacturing industry has suffered tremendously. The companies that remain in the U.S. produce world-renowned quality products and employ a highly skilled workforce but face duties on fabrics they rely upon while many of their foreign competitors are allowed preferential duty treatment. H.R. 1945 would help level the playing field, providing tariff relief and helping strengthen U.S. manufacturers, cotton growers and spinners.

Beginning with NAFTA, and repeated in the Caribbean Basin Initiative, the Andean Trade Preference Act, the African Growth and Opportunity Act, and most recently in the DR–CAFTA agreement, Congress has extended generous trade preferences to foreign manufacturers in these countries to import finished shirts duty-free into the United States with fabric sourced from non-agreement countries. In each case, Congress has found that this fabric, two-ply high quality cotton shirting fabric, is not manufactured in the U.S. or in any of the countries under the above agreements. The International Trade Commission and the Department of Commerce has also repeatedly found that this fabric is not available in commercially available quantities in the United States in administrative findings on the fabric when used to produce other apparel items.

H.R. 1945 provides duty relief to a narrow class of high end two-ply cotton shirting fabric, some of which would need to contain U.S. Pima cotton content, imported into the U.S. for shirt making. The bill would also reliquidate about one third of the duties U.S. manufactures have paid since NAFTA to be used to create a program that would strengthen the U.S. industry, including the manufacturers, spinners of high end yarn, and American Pima cotton growers. We expect to implement a 'Buy American' program for SUPIMA cotton, and believe this aspect of the bill is entirely appropriate to correct a policy that should never have occurred. As mentioned above, CAFTA extended the same duty-free treatment to foreign manufacturers to bring finished shirts into the U.S. In fact, CAFTA went a step further, granting foreign manufacturers duty rebates for shirts entering the U.S. since January 1, 2004. If the United States is going to provide duty refunds for foreign manufacturers, it only makes sense to return duties from U.S. manufacturers that we believe should never have been collected.

H.R. 1945 will help preserve hundreds of domestic skilled jobs manufacturing dress shirts in Alabama, Pennsylvania, North Carolina, New Jersey, Tennessee and Louisiana, as well as promote employment for yarn spinners in Georgia and American Pima cotton growers in Texas, Arizona, New Mexico and California.

We urge the Subcommittee and the full Committee on Ways and Means to include H.R. 1945 in any miscellaneous trade and tariff and duty suspension legislation that

the Committee considers. Thank you for the opportunity to comment on this matter so important to the many growers of American Pima cotton in the United States.

Jesse W. Curlee
President

HoMedics, Inc.
Commerce Township, Michigan 48390
August 25, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade
Committee on Ways and Means
1236 Longworth House Office Building
Washington, DC 20515

Dear Mr. Chairman:

HoMedics Inc. ("HoMedics"), a privately held company headquartered in Commerce Township, Michigan, appreciates this opportunity to comment on H.R. 1947, a bill to provide for the reliquidation of certain entries of Soundspa clock radios. Founded in 1987, HoMedics established a reputation as the leading manufacturer of back and body massagers. The company expanded it personal healthcare and wellness line of products to include hot/cold compression wraps, footbaths, dental products, sensory relaxation systems, magnetic therapy products, and a wide range of personal care products. Today, HoMedics manufactures and markets the most complete line of home personal healthcare, wellness, and relaxation products sold in America.

HoMedics strongly supports H.R. 1947, which would provide necessary relief by directing Customs to refund erroneously collected duties on the SoundSpa clock radios imported by HoMedics.

HoMedics, Inc. ("Homedics") imports model # SS–400, the SoundSpa Deluxe Acoustic Relaxation Machine with LCD Alarm Clock and AM/FM radio ("SS–400" or "SoundSpa"). The SS–400 contains an LCD clock display and clock timer. Besides the AM/FM radio function, the SS–400 plays a variety of natural sounds: woodlands, spring rain, mountain stream, ocean waves, and summer night.

A Customs New York ruling, NY C87866, dated June 11, 1998, classified the SS–400 under 8527.19.5015, HTSUS, which provides for other radios incorporating a clock or clock timer, with a rate of duty of 3.6 percent ad valorem.

Two years later, Customs Headquarters overturned the New York ruling in HQ 962340, dated July 6, 2000. The Headquarters ruling, which was issued to one of Homedics' customers, described the SoundSpa as a clock radio combined with an electronic sound microchip within the same housing. Headquarters noted that the natural sounds are reproduced from the microchip and that the intent of the drafters of the International Harmonized System was to take no notice of the sound microchips in classifying goods that contain them. By applying Note 3 to Section XVI, Customs found that the SoundSpa is a composite machine whose principal function is provided by the clock radio and that the SS–400 is classified according to the radio component under subheading 8527.19.10 (EN), HTSUS, as a duty free reception apparatus. This subheading provides for other reception apparatus for radiotelephony combined with sound recording or reproducing apparatus, valued not over $40, incorporating a clock or clock-timer, not in combination with any other article, and not for installation in a motor vehicle.

Homedics agrees with Customs Headquarters' final determination that the SS–400 is properly classified under 8527.19.10, HTSUS and is duty free. However, for several months, the product was misclassified as directed by the New York ruling. The misclassification and associated overpayment of duties was caused by the New York ruling, which Customs Headquarters later declared to be erroneous and overturned. Even though the New York ruling was erroneous, Homedics was required by the Customs regulations to follow it and deposit duties.

H.R. 1947 would provide HoMedics the relief it deserves by refunding the erroneously collected duties. The estimated duty refund amount is $108,931, plus interest. This amount is well below the $500,000 per year threshold allowed for inclusion in a miscellaneous trade bill. Customs erred and HoMedics has no administrative remedy. H.R. 1947 is non-controversial in that it is fully consistent with HQ 962340, dated July 6, 2000.

Thank you for your consideration of this request.

Renee Chiuchiarelli
Logistics Compliance Manager

HoMedics, Inc.
Commerce Township, Michigan 48390
August 25, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade
Committee on Ways and Means
1236 Longworth House Office Building
Washington, DC 20515

Dear Mr. Chairman:

HoMedics Inc. ("HoMedics"), a privately held company headquartered in Commerce Township, Michigan, appreciates this opportunity to comment on H.R. 1948, a bill to provide for the reliquidation of certain entries of AquaScape Relaxation Bubble Lights. Founded in 1987, HoMedics established a reputation as the leading manufacturer of back and body massagers. The company expanded it personal healthcare and wellness line of products to include hot/cold compression wraps, footbaths, dental products, sensory relaxation systems, magnetic therapy products, and a wide range of personal care products. Today, HoMedics manufactures and markets the most complete line of home personal healthcare, wellness, and relaxation products sold in America.

HoMedics strongly supports H.R. 1948, which would provide necessary relief by directing Customs to refund erroneously collected higher duties on the AquaScape Relaxation Bubble Lights imported by HoMedics.

The Aquascape consists of a clear plastic tube filled with water that is mounted on a base. An air pump in the base creates bubbles. The base holds a 10 or 20-watt light bulb that shines through a rotating color wheel. The colors on the wheel are red, blue, green, and yellow. The light, which is of a very low-powered illumination, is distorted by the bubbles and changes colors as it is filtered through the tube.

The AquaScape comes in nine model types (the 100 series, 300 series, and 500 series). All model numbers are materially identical, varying only in the height (20 inches through 51 inches) and shape of the clear plastic container holding the water. The purpose of the AquaScape is to add peaceful tranquility to a room.

The product is properly classified under the Harmonized Tariff Schedule of the United States ("HTSUS") under subheading 8543.89.96, as other electrical machines and apparatus, dutiable at 2.6% *ad valorem.* HTS 8543.89.96 covers: Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof: Other machines and apparatus: Other: Other: Other: Other.

Customs issued to Homedics an adverse New York Ruling Letter, NY G80198, dated Aug. 15, 2000 stating that the AquaScape is a "lamp," classified under subheading 9405.40.80, HTSUS, dutiable at 3.9% ad valorem. This subheading covers: Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated nameplates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included: Other electric lamps and light fittings: Other.

However, past court cases have held that a decorative article that uses a limited amount of light to illuminate itself and does not provide any significant illumination or substantial use as an illuminating article to the surrounding area, or where lighting of the surrounding space is only incidental to the decorative effect, cannot be classified as a lamp and is classified as an electrical apparatus. *See Ross Products, Inc. v. United States,* 433 F.2d 804 (C.C.P.A. 1970); *New York Merchandise Co. v. United States,* 1 Ct. Int'l Trade 200 (1981); *L. Batlin & Son, Inc.,* 345 F. Supp. 996 (Cust. Ct. 1972), *aff'd,* 487 F.2d 916 (C.C.P.A. 1973). The low-watt bulb in the AquaScape produces only enough light to illuminate the article itself as a decorative effect, but does not provide enough light for any other purpose.

A request for reconsideration was filed with Headquarters. Headquarters issued an adverse decision on July 26, 2002, in HQ 965248. Customs took the position that cases concerning classification under the Tariff Schedules of the United States ("TSUS"), the predecessor to the HTSUS, are not dispositive in interpreting the HTSUS. However, Headquarters has relied on prior TSUS cases when they supported a higher duty rate.

H.R. 1948 would provide HoMedics relief that is consistent with judicial precedent. The estimated duty refund amount is $250,000, plus interest. This amount is below the $500,000 per year threshold allowed for inclusion in a miscellaneous trade bill. The bill would affect only Homedics' AquaScape products and would have no effect on any other company's products.

Thank you for your consideration of this request.

Renee Chiuchiarelli
Logistics Compliance Manager

HoMedics, Inc.
Commerce Township, Michigan 48390
August 25, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade
Committee on Ways and Means
1236 Longworth House Office Building
Washington, DC 20515

Dear Mr. Chairman:

HoMedics Inc. ("HoMedics"), a privately held company headquartered in Commerce Township, Michigan, appreciates this opportunity to comment on H.R. 1949, a bill to provide for the reliquidation of certain entries of candles. Founded in 1987, HoMedics established a reputation as the leading manufacturer of back and body massagers. The company expanded it personal healthcare and wellness line of products to include hot/cold compression wraps, footbaths, dental products, sensory relaxation systems, magnetic therapy products, and a wide range of personal care products. Today, HoMedics manufactures and markets the most complete line of home personal healthcare, wellness, and relaxation products sold in America.

HoMedics strongly supports H.R. 1949, which would provide necessary relief by directing Customs to refund erroneously collected antidumping duties on scented and tea light candles that were imported by HoMedics for some of its desk top fountains. An antidumping (AD) order has been in place on petroleum wax candles from China since 1986. The order imposes AD duties of 54.21% on covered items.

The candles imported by HoMedics are not included within the scope of the order. However, Customs officers at the port of Long Beach, California, erroneously told HoMedics that its candles were within the scope of the AD order. Customs instructed HoMedics that the candles must be separately identified on the manufacturer's invoices and AD duties must paid on the value attributable to the candles. HoMedics was not permitted to enter its merchandise unless it paid AD duties. HoMedics paid AD duties from approximately March 2000 through December 2000. Customs subsequently liquidated those entries to include AD duties.

On March 28, 2000, Customs issued a ruling, NY F84932, stating that candles containing over 50% palm oil wax are not within the scope of the AD order. When HoMedics learned of the ruling, it submitted its scented and tea light candles to an independent laboratory for a content analysis. Customs Science Services, Inc. supplied its Laboratory Analysis Report on April 29, 2001. The report concluded that HoMedics' candles consisted of either 60% palm wax and 40% paraffin wax, or 57% palm wax and 43% paraffin wax. HoMedics submitted a copy of the New York ruling and the lab report to Customs. The agency stopped assessing AD duties on HoMedics' candles and the company's candle entries are now liquidated without antidumping duties.

However, HoMedics cannot get a refund on entries that already were already liquidated. In *Mitsubishi Electronic America, Inc. v. United States,* 44 F.3d 973 (Fed. Cir. 1994) the Court of Appeals for the Federal Circuit stated that the protest statute, 19 U.S.C. § 1514, excludes antidumping determinations from the list of matters that parties may protest to Customs. Therefore, HoMedics has no administrative remedy to recoup its erroneously collected AD duties.

H.R. 1949 would provide HoMedics the relief it deserves by refunding the erroneously collected duties. HoMedics is not circumventing the AD order. None of its candles were ever subject to the antidumping duty order. Customs erred and HoMedics has no administrative remedy.

The size of the estimated duty refund is $107,680, plus interest. This amount is well below the $500,000 per year threshold allowed for inclusion in a miscellaneous trade bill. H.R. 1949 is non-controversial because Customs agrees that the candles should be liquidated without antidumping duties.

Thank you for your consideration of this request.

Renee Chiuchiarelli
Logistics Compliance Manager

Barnes & Thornburg LLP
Washington, DC 20006
September 2, 2005

The Honorable E. Clay Shaw, Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

On behalf of the National Candle Association ("NCA"), we hereby submit its comments to express NCA's vigorous opposition to inclusion of H.R. 2473 and H.R. 1949 in the package of miscellaneous tariff bills. H.R. 2473 will weaken the antidumping law by amending the way in which the Department of Commerce calculates the "All Others" dumping margin. This would make a substantial and harmful change to the antidumping law by making it exceedingly difficult in a large number of cases for the Department of Commerce to calculate an "All Others" dumping rate for non-investigated exporters. This bill would not be administrable and has already attracted substantial opposition from U.S. manufacturers.

The "All Other" rate applies to exporters that were not investigated and is based on the weighted average of dumping margins calculated for exporters that were investigated. H.R. 2473 would prohibit the Department of Commerce from calculating the "All Others" rate from any margins based on facts available. In many cases, this would effectively prohibit Commerce from calculating an "All Others" rate. This creates an administrative barrier for Commerce, and the bill provides no alternative method of calculating the "All Others" rate.

H.R. 2473 is not a technical change, but rather a substantial substantive change that will weaken the antidumping law, create controversy and cause strong opposition from the U.S. manufacturing community. Congress has consistently refused to include any controversial measure in previous bills, such as this Technical Corrections and Miscellaneous Duty Suspension bill. A "non-controversial" miscellaneous trade bill is not an appropriate vehicle to make legislative changes to trade remedy laws.

H.R. 1949 proposes to reliquidate entries of imports of candles without the assessment of antidumping duties or interest and a refund of any antidumping duties and interest which were previously paid on such entries. The subject imports that entered the United States in the year 2000 are subject to a 65% antidumping duty. The respondents appealed the Department of Commerce decision to impose a 65% antidumping duty on imports on candles from China. The Court of International Trade affirmed the decision of the Department of Commerce, and the Court of Appeals for the Federal Circuit dismissed the respondent's appeal. H.R. 1949 is an attempt to overrule the decisions of the Department of Commerce, the Court of International Trade, and the Court of Appeals for the Federal Circuit. This bill is controversial, not administrable, and blatantly operates retroactively. H.R. 1949 has no place in a "non-controversial" miscellaneous trade bill.

Randolph J. Stayin
Counsel to the National Candle Association

National Candle Association

Written Comments to H.R. 2473—Change and Method for Calculating "All Other" Rates, Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills

SUPPLEMENTAL SHEET

List of witnesses to the September 2, 2005 submission filed by Randolph J. Stayin on behalf of the National Candle Association:

On behalf of the National Candle Association:

Ms. Valerie B. Cooper
Executive Vice President
National Candle Association

Counsel to the National Candle Association:

Randolph J. Stayin, Esq.
Barnes & Thornburg LLP

Cheese Importers Association of America, Inc.
New York, New York 10022
September 1, 2005

The Honorable E. Clay Shaw, Jr.
U.S. House of Representatives
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the members of the Cheese Importer Association of America, Inc., I am writing to express our support for H.R. 2003, and to request its inclusion in the forthcoming Miscellaneous Trade Bill.

This bill repeals the 100 percent tariff on Roquefort cheese and will provide relief to a number of our members, but especially Lactalis American Group, which has carried most of the weight imposed by this substantial tariff. As you know, the U.S. imposed a series of retaliatory tariffs against the EU in 1999 in response to the EU's failure to comply with the WTO decision on beef hormones. Roquefort cheese was on this list, and due to the inaction on the part of the EU, Lactalis and other importers continue to suffer the penalty. Given the likelihood that this tariff will be in place for the foreseeable future, we support congressional action to provide relief to these companies who desperately need it.

Roquefort is a unique, premium cheese which is enjoyed by consumers all over the world. Our members would like to bring this product to American consumers at a competitive price, but are unable to do so because of the costs imposed by the tariff. We hope you agree that this issue should be rectified by including H.R. 2003 in the Miscellaneous Trade Bill.

Chairman Shaw, thank you for considering our views and for you support of free and open trade.

Very truly yours,

Thomas G. Toto
President

International Dairy Foods Association
Washington, DC 20005
September 2, 2005

The Honorable E. Clay Shaw, Jr.
U.S. House of Representatives
1104 Longworth House Office Building
Washington, DC 20515

Dear Mr. Chairman:

The International Dairy Foods Association (IDFA) whose membership includes over 500 companies involved in the processing, manufacturing, and marketing of dairy foods supports, the inclusion of H.R. 2003 in the miscellaneous tariff bill.

This bill repeals the 100 percent tariff on Roquefort cheese and will provide relief to our member company, Lactalis American Group, which has carried most of the weight imposed by this substantial tariff. Lactalis American Group is a U.S.-based subsidiary of Groupe Lactalis, the largest dairy group in Europe and a global player in all facets of the dairy industry. In addition to the domestic production at five U.S.-based production facilities where Lactalis employs approximately 1,400 U.S. citizens and manufactures products valued at $700 million, the company is also involved in the importation of Roquefort cheese.

As you know, the U.S. imposed a series of retaliatory tariffs against Europe Union (EU) products in 1999 in response to its failure to comply with the World Trade Organization decision which ruled that the EU's ban on hormone—treated beef was illegal. Roquefort cheese was on this list, and due to the inaction on the part of the EU, Lactalis continues to suffer the penalty.

Given the likelihood that the 100 percent duty on Roquefort cheese will be in place for the foreseeable future, IDFA supports H.R. 2003 which would eliminate this punitive tariff. While this change would facilitate the importation of greater amounts of Roquefort cheese, it would not disadvantage U.S. cheese producers because by virtue of U.S. trademark laws, all Roquefort cheese must be produced according to strict standards in Roquefort-sur-Soulzon, a French town that sits above the limestone caves in which the cheese is cured and stored. Furthermore, the other cheeses with which it competes are almost entirely other European cheeses that are imported without the tariff to which Roquefort is subject.

Chairman Shaw, thank you for considering our views and for your support of free and open trade.

Connie Tipton
President and Chief Executive Officer

Lactalis American Group, Inc.
Buffalo, New York 14220
September 2, 2005

The Honorable E. Clay Shaw, Jr.
U.S. House of Representatives
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

This letter is to express our company's strong support for H.R. 2003, a bill to amend the Harmonized Tariff Schedule to remove the 100 percent tariff on Roquefort cheese. We strongly believe that it should be included in the Miscellaneous Trade Bill that will be considered by the Trade Subcommittee.

Lactalis American Group, Inc. is a U.S.-based subsidiary of Groupe Lactalis, the largest dairy group in Europe and a global player in all facets of the dairy industry. In addition to the domestic production at five U.S.-based production facilities where Lactalis employs approximately 1,400 U.S. citizens and manufactures products valued at $700 million, the company is also involved in the importation of numerous Lactalis-owned brands from Europe.

In 1999, pursuant to the European Union's failure to comply with the WTO's decision on beef hormone, the USTR imposed 100 percent ad valorem duties on a list of goods from all EU countries (with the exception of the U.K., which supported the U.S. position). One of these products was Roquefort cheese, which is a world-renowned cheese of the highest quality and one of which Lactalis American Group imports the overwhelming share into the U.S. Therefore, our company has, to a far greater degree that any other firm, borne the burden of this tariff. Roquefort is an important complement to the full line of cheeses that we produce in the United States because it is the premium offering that many retailers, restaurants and consumers desire. I believe that if we could market Roquefort at a more competitive price, this would significantly increase demand and distribution for our domestically produced products, by strengthening the association of our American-made cheeses with the quality, authenticity, and cachet of Roquefort.

Over the past five years, Lactalis American Group, Inc. has consolidated and substantially strengthened our products' position, and concurrently has stabilized and improved the productivity of our American manufacturing facilities. We wish to continue in this direction by emphasizing the world-class quality of our American-made cheeses through several strategies; importantly, through association with our Roquefort cheese. With the current tariff in place, this is not possible.

Because the EU has shown no intention of complying with the WTO decision, we have labored under the weight of this crippling 100 percent tariff for more than six years, without benefit to the United States' position. I fear that absent action by the Congress we will live with this tariff permanently. This is why we support H.R. 2003, which would repeal this tariff and offer us the chance to unlock the potential of our full line of cheeses, including those produced at our five U.S. facilities.

I do not believe there are any domestic U.S. interests that will be harmed by the repeal of this tariff, given Roquefort's unique position in the market and the fact

that none is produced in the U.S.; and in light of the benefits that I believe will be experienced by our domestic products (and as a result, our plants and employees) this is a sound change as a matter of trade and economic policy.

We are represented on this matter by The Tipton Group, a Washington, DC-based consulting firm, which has also filed comments on this legislation. I would refer you to their submission for any further information, and invite you to contact them or myself if we can be of assistance as you consider which legislation should be included in the Miscellaneous Trade Bill.

Thank you for your consideration.

Erick Boutry
President & Chief Executive Officer

The Tipton Group, Inc.
Washington, DC 20003
September 2, 2005

The Honorable E. Clay Shaw, Jr.
U.S. House of Representatives
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

This letter is in response to the Trade Subcommittee's request for comments on technical corrections to U.S. trade laws on behalf of my client, Lactalis American Group. We would like to register our strong support for H.R. 2003, which is on the list of bills under consideration for inclusion in the upcoming Miscellaneous Trade Bill.

Lactalis American Group is a U.S.-based subsidiary of Groupe Lactalis, the largest dairy group in Europe and a global player in all facets of the dairy industry. In addition to the domestic production at five U.S.-based production facilities where Lactalis employs approximately 1,400 U.S. citizens and manufactures products valued at $700 million, the company is also involved in the importation of numerous Lactalis-owned brands from Europe. Among these is Roquefort cheese.

H.R. 2003 addresses an unintended, but most unfortunate consequence of our long-running dispute with the European Union regarding the EU's ban on U.S beef. The World Trade Organization ruled, first in 1997 and then again on appeal in 1998, that the EU ban violated WTO rules established under the Uruguay Round Agreement. On July 27, 1999 the Office of the U.S. Trade Representative published a Federal Register notice detailing the imposition of 100 percent ad valorem duties on certain articles totaling $116.8 million, the retaliation level authorized by the WTO in response to the EU's failure to comply with its decision. One of these products was Roquefort. More than six years have passed since the inception of the retaliation and little, if any, progress has been made on behalf of U.S. cattlemen whose access to the EU beef market has been denied. Meanwhile, Lactalis, and other companies like it, have struggled under the weight of this substantial tariff. Lactalis imports the overwhelming majority of Roquefort cheese, so this firm—almost by itself—has borne the crippling burden of this tariff. Due to the inaction on the part of the EU, this company may live with this tariff in perpetuity, unless Congress provides relief.

In 2000, after it became clear that the EU had no intention of coming into compliance with the WTO decision, the Congress passed, as part of the Trade Development Act of 2000, a provision known as carousel retaliation, under which the USTR is required to rotate new items onto a retaliation list every 180 days if it is apparent that the losing party is not taking any steps to comply with the WTO decision. While this tool, which was conceived specifically for use against the EU because of its unique policy-making apparatus, could force the EU into a more conciliatory position, the USTR has thus far declined to implement it. The failure to implement carousel has left Lactalis

American Group paying the burdensome 100 percent tariff for over six years. Given the lack of alternative options to obtain any relief from the 100 percent tariff, we strongly support legislative action to repeal this tariff. This is the purpose of H.R. 2003. The bill simply eliminates the retaliatory tariff specifically and only on Roquefort. It does not reduce the authorized retaliation level, and USTR could apply the tariff to another product

While this change would facilitate the importation of greater amounts of Roquefort cheese, it would not disadvantage U.S. cheese producers because by virtue of

U.S. trademark laws, all Roquefort cheese must be produced according to strict standards in Roquefort-sur-Soulzon, a French town that sits above the limestone caves in which the cheese is cured and stored. Furthermore, the other cheeses with which it competes are almost entirely other European cheeses that are imported without the tariff to which Roquefort is subject.

Officials at Lactalis American Group strongly believe that the availability of Roquefort at a more competitive price will be a salutary influence on the sales of the many cheeses which it produces in its U.S. production facilities. Today, retailers want to work with cheese producers who can offer a complete line of chesses, from the low-cost commodity offerings to the more premium high-end products. Lactalis has positioned Roquefort as its premium offering, but its ability to execute on this strategy is severely hampered by Roquefort's uncompetitive price—which results from the 100 percent tariff. They feel confident that if they could offer Roquefort at a more reasonable price point, this would lead to increased sales of the other domestically produced cheeses it offers for sale. Thus, the U.S.-based plants and employees would feel the benefit of lifting this tariff.

Finally, Roquefort itself has a remarkably progressive position within Europe on one of the key agricultural trade disputes between the U.S. and EU—that of geographical indicators. In opposition to the EU's claim that the right to certain trade names should belong to a region, Roquefort has always abided by the trademark and patent laws of each country in which its products are sold; and it has been vocal proponents of the superiority of this approach. I am told that during his time as USTR, Robert Zoellick himself cited Roquefort as a positive example when arguing the U.S. position with his European counterparts. We hope that this would be recognized by U.S. policymakers and taken into consideration as they contemplate current and future retaliation against the EU.

Though Lactalis American Group is the subsidiary of a foreign parent, they are clearly the type of company we should welcome given their high-level of capital investment in U.S. facilities and people. They should not have to suffer the penalty of this tariff forever, which we fear will be the case absent some action by the Congress (or some extremely unlikely about-face on the part of the EU). H.R. 2003 would give this great company a chance to be an even stronger competitor and realize the full potential of its domestic offerings, by having a world-renowned premium product, Roquefort cheese, which they can offer without the considerable costs imposed by the 100 percent tariff it currently carries.

We believe it is just the type of bill which the Miscellaneous Trade Bill is intended to move through the legislative process. Please let us know if you have any questions, or would like additional information, as you make final decisions about which bills will be included in the MTB. Thank you for your consideration.

E. Linwood Tipton
Chairman & CEO

Harley-Davidson Motor Company
Milwaukee, Wisconsin 53208
August 30, 2005

The Honorable E. Clay Shaw, Jr., Chairman
Subcommittee on Trade
Committee on Ways & Means
U.S. House of Representatives
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of Harley-Davidson Motor Company, I respectfully request the inclusion of H.R. 2015 in the legislation you are drafting to suspend temporarily the duty on certain imports. H.R. 2015, sponsored by Representatives Paul Ryan and Gwen Moore of Wisconsin, would suspend the duty on wheel assembly and truing machines that Harley-Davidson Motor Company uses in the production of its motorcycles.

These machines are a critical part of our wheel assembly process and greatly improve the quality of our wheels and therefore the safety of our customers. These machines are used to assemble laced-spoke wheels. During assembly, wheels must be "trued" to ensure that they are perfectly straight and the circle of the rim is perfectly round. If this is not done correctly, the motorcycle will not track in straight

line. The hand assembly of these wheels is a very time consuming, inefficient and tedious task.

The machines identified in H.R. 2015 automate the process of assembling and truing wheels. This improves our company's productivity, frees up employees to perform greater value added tasks, and provides a high quality and safer assembly of our laced-spoke wheels.

There are no domestic manufacturers of wheel assembly and truing machines for motorcycle wheels. However, MACH1 of Epagny, France, produces high quality wheel assembly and truing machines that meet Harley-Davidson Motor Company's standards. We have used these machines in our motorcycle assembly plants for many years.

However, as the motorcycle industry has grown in recent years, the Motor Company has been investing in numerous capital improvement projects. One of these projects is to purchase additional wheel truing machines.

Therefore, to assist Harley-Davidson Motor Company in purchasing additional wheel truing machines, the Motor Company asks you to include the legislative language of H.R. 2015 in the miscellaneous duty suspension legislation you are developing.

Sincerely

Wayne T. Curtin
Director
Government Affairs

Chemtura
Middlebury, Connecticut 06749
September 2, 2005

David Kavanaugh
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Kavanaugh:

Re: HR 1782 and 2056

Chemtura is strongly opposed to the proposal to remove duties on the following products:

- Palmitic Acid (HR 1782)
- Palm fatty acid distillates (HR 2056)

Chemtura manufactures approximately 200MM lb/yr of various fatty acids, including palm derived and coconut derived products, in our Memphis, Tennessee plant. This product is chemically converted into amides, stearates and esters which are used as additives for plastics and for other markets, and also sold for use as chemical intermediates in the U.S. Chemtura is one of four U.S. based manufacturers of these products.

Competition from low cost, Asian sources has put a significant strain on U.S. based Oleochemicals producers. Elimination of this duty into the U.S. will result in reduced production and employment at the Memphis facility.

In addition, Biodiesel legislation offering subsidies for production of biodiesel in the U.S. already has significantly impacted profitability of the Oleochemicals sector by introducing new supplies of glycerin, a byproduct of both biodiesel and fatty acid manufacture. This new supply of glycerin has reduced the selling price of this byproduct as much as 40% over the last 12 months, unfavorably impacting the cost of fatty acid production.

While the biodiesel legislation has been approved for the greater good of the country's energy position, the combined impact of elimination of the duties and biodiesel will significantly impact our ability to continue operating and could result in the loss of over 325 U.S. jobs at our Memphis facility.

Sincerely,

Elizabeth Thomasino
Manager, Imports and Customs

Lloyd N. Moon
Vice President, Government and Industry Affairs

Beaver Manufacturing Company
Mansfield, Georgia 30055
August 31, 2005

Hon. E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade of the Committee on Ways and Means
1236 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

The following statement is submitted on behalf of Beaver Manufacturing Company in response to the Subcommittee's request for public comment in connection with proposed legislation currently under consideration before the Subcommittee to temporarily suspend duty on certain products.

Beaver Manufacturing Company, located at 12 Ed Needham Drive, Mansfield, Georgia, wishes to express its strong support for HR 2096, which is intended to extend the suspension of duty on certain high tenacity rayon filament yarn. Thanks to a temporary duty suspension established through the Miscellaneous Trade and Technical Corrections Act of 2004, high tenacity rayon filament yarn is duty-free through December 31, 2006. If not for this suspension, high tenacity yarn of viscose rayon would be subject to a duty of 10% for single yarn and 9.1% for cabled yarn, also known as cord. HR 2096 will extend the elimination of this duty through December 2008.

Beaver Manufacturing Company supplies quality industrial yarns primarily for the mechanical rubber goods industry, particularly the hose industry. Beaver supplies polyester, PVA, nylon, rayon and aramid fibers to its customers. Beaver purchases these yarns from foreign and domestic sources and sells them to its customers after performing one or more treatments on the yarn it purchases. Depending on the customer's needs and the ultimate application for the product, Beaver may twist, rewind, repackage and/or treat the yarn with a finish. The premier hose yarn converter in North America, Beaver provides a wide variety of treatments for both adhesion and package integrity.

For several years now, there has been no U.S. producer of high tenacity rayon filament yarn. Beaver purchases 100% of its high tenacity rayon filament yarn needs from Cordenka GmbH, located in Obernburg, Germany. After treating the rayon yarn in one of the manners described above, Beaver sells the rayon yarn to hose producers, such as Parker-Hannifin, Mark IV Automotive, Gates and Goodyear. Beaver also sells other fibers to these same companies, but rayon is the preferred fiber, despite its higher cost, for the particular applications in which rayon is still used by these companies. Rayon is used in situations where a customer needs superior heat resistance and/or dimensional stability, such as in automotive hoses. Because of the limited applications in which rayon remains the preferred fiber, Beaver does not expect to see an increase in its sales of rayon yarn based on the continued elimination of the duty on rayon. Rather, extending the duty suspension on high tenacity rayon yarn will help Beaver to keep costs down, enabling it to continue to provide a quality product at an acceptable price.

In conclusion, we urge you to continue the duty suspension on high tenacity rayon filament yarn, which is critically important to Beaver.

We would be happy to provide you with additional information or details as necessary. Please contact the undersigned.

William Loeble
Chief Operating Officer

Clariant Corporation
Martin, South Carolina 02816
August 24, 2005

The Honorable E. Clay Shaw, Jr
Committee on Ways and Means
1102 LHOB
U.S. House of Representatives
Washington, DC 20015

Dear Chairman Shaw,

I am writing on behalf of the Textile, Leather, Paper Division of Clariant Corporation to object to the suspension of duty on Astacin Finish PUM, identified in H.R. 2117, introduced by Representative Weller on May 5, 2005. The tradename is the

only identification of the substance for which duty suspension is being requested. It is our belief that this chemical, in use, competes against the Clariant product, Melio 11R22, manufactured at our Martin, S.C., facility. Clariant is a major manufacturer of specialty chemicals and employs approximately 180 personnel at the Martin Site. A suspension of duty would negatively impact our domestic manufacturing capability.

Clariant opposes the granting of temporary duty suspension for the compound named in H.R. 2117.

Sincerely,

Dan Packer
Director of Technical Development

Sun Chemical Corp
Cincinnati, Ohio 45232
August 23, 2005

Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Committee Members:

We strongly oppose the elimination of import duties on the following pigment:
3204.17.90 Pigment Yellow 139
CI Number 56298 Class: Isoindoline
Hue: Reddish Yellow CAS: 36888–99–0
Use: Inks, Plastics & Paint

Sun Chemical produces CI Pigment Yellow 139 in the United States at the Bushy Park plant and any suspension of import duty would put us at a competitive disadvantage with foreign producers.

Edwin B. Faulkner
Director—Product Management & Communications

Lubrizol Corporation
Wickliffe, Ohio 44092
August 17, 2005

Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Re: H.R. 2145

Dear Committee members:

The Lubrizol Corporation ("Lubrizol") is a long-standing specialty chemical manufacture that has produced TMQ since the mid-1930's. The removal of the import duty results in Lubrizol being at a disadvantage with our foreign competitors.

Sincerely,

David L. Cowen
Manager, Public Affairs

Chemtura
Middlebury, Connecticut 06749
September 2, 2005

David Kavanaugh
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Kavanaugh:

Re: HR 2146

Chemtura is strongly opposed to the proposal to temporarily remove duties on the following product:

- 4-aminodiphenylamine (Chemtura's product names are UBOB and PDA) as requested in HR 2146.

Chemtura manufactures approximately 30MM lb/yr in our Geismar, Louisiana plant. This product is chemically converted into a family of rubber chemical antiozonants (Chemtura trade name Flexzones), or sold for use as a chemical intermediate in the U.S. Chemtura is the only U.S. manufacturer of this product.

Elimination of this duty into the U.S. would unfairly advantage European manufacturers, while Chemtura would be disadvantaged by being required to pay duties when importing into Europe. The EU import duty is 6.5 %, the same as the current U.S. rate when importing this material. Further, Chemtura will lose significant market share, resulting in reduced production and employment at the Geismar facility. In addition Chemtura is required by new regulations to invest significant funds for environmental protection, where some of our competitors in other regions are not being held to the same standards. If Chemtura faces lower priced competition, it may not be able to make those investments and will be forced to halt production.

The proposal to reduce the duties is being made by a major European based competitor of Chemtura, and is clearly designed to put Chemtura at a competitive disadvantage in the global marketplace.

Sincerely,

Elizabeth Thomasino
Manager, Imports and Customs

Lloyd N. Moon
Vice President, Government and Industry Affairs

R.T. Vanderbilt Company, Inc.
Norwalk, Connecticut 06855
August 31, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to express the strong opposition of R.T. Vanderbilt Company, Inc. ("RTV") to H.R. 2147, the duty suspension bill now pending before your subcommittee, that would temporarily suspend the current 6.5 percent import duty on VULKANOX MB. RTV produces in its chemical plant in Murray, Kentucky a directly competitive product called VANOX® MTI. The product name of VULKANOX MB, as indicated in H.R. 2147, is 2–Mercaptobenzimidazole. The product name of VANOX ® MTI is 2–Mercapto-4(5)-methylbenzimidazole. The only chemical difference between the two competing products is a methyl group in VANOX MTI. However, both products have the same use. In fact the entire VULKANOX line of antioxidant products is primarily designed to afford protection from oxygen, heat, and unorientated crack formation. I am also attaching the first page of our "Material Safety Data Sheet" for VANOX MTI (also available at our website, www.rtvanderbilt.com), which provides further information.

RTV sells VANOX MTI for use in the rubber and plastics markets as a synergistic antioxidant that greatly improves the performance of the other antioxidants with which it is combined in order to protect polymers against high heat, oxygen and steam. We have frequently competed head to head for sales with VULKANOX MB in both Europe and the United States. For example, we have recently competed against VULKANOX MB with our VANOX MTI product at the accounts of Michelin Tire and Rhein Chemie.VANOX MTI is critically important to our Murray, Kentucky facility, where we employ about 110 people. Although we produce several other products at that plant, VANOX MTI is one of the most important in terms of investment, revenue stream, profitability, and employment. Thus, if the duty suspension bill is enacted into law, it could jeopardize the economics of our entire plant. RTV currently operates a second chemical manufacturing plant in Bethel, Connecticut. However, if, as we expect, we sustain a significant loss of sales of VANOX MTI as a result of the duty suspension, we would have to seriously evaluate whether we could continue to operate two plants. In other words, it could become nec-

essary for us to consolidate our operations at one plant and close the other one. Thus, elimination of the duty on VULKANOX MB threatens to undermine the economics of our current business model and would have drastic effects on employment, investment, and profitability.

VULKANOX MB is a registered trademark of, and is produced in Europe by, Bayer AG. It is marketed in the United States by Lanxess Corporation, which is a U.S. subsidiary of a German company, Lanxess AG. Lanxess AG is a spinoff of Bayer AG. We are also aware of four other foreign producers of chemically equivalent products to VULKANOX MB that are located in India (Finornic Chemicals Pvt. Ltd. and Yasho Industries Pvt. Ltd.) and China (Puyang Willing Chemicals Co., Ltd. and Qingdao Rubber Chemicals Co., Ltd.). Thus, this duty suspension bill would greatly increase the threat to our company by providing a significant competitive advantage to numerous foreign producers.

RTV is the only company that makes a product in the United States that competes directly with VULKANOX MB or its chemical equivalents imported from India and China. Because the chemical composition of the domestic product that competes with VULKANOX MB is very similar, they compete mainly on the basis of price. Thus, eliminating the current 6.5 percent import duty will provide a significant competitive advantage to Lanxess AG and its U.S. subsidiary and to the Indian and Chinese producers and their importers over our competing product. Moreover, we expect that the International Trade Commission's report to the Committee will show a significant loss in revenue to the U.S. Treasury through the elimination of this duty.

Quite frankly, we do not understand why this legislation is needed, and its sponsor has not provided an explanation since he introduced it. RTV has ample capacity in its Kentucky plant to supply the foreseeable needs of customers in the U.S. Thus, there is no shortage of domestic-origin products, so the only result of the legislation would be windfall profits at our expense to the German, Indian and Chinese suppliers and importers.

It is also ironic that the European Union currently maintains a 6.5 percent ad valorem duty on our own exports of VANOX MTI to the EU. Thus, although the import tariff playing field is level right now because the EU and the U.S. maintain the identical duty, the duty suspension would tilt that field totally in favor of Lanxess. There is no reason why Congress should act in such an unfair way towards a domestic producer.

For all of these reasons, on behalf of RTV, we respectfully request that the House of Representatives not enact H.R. 2147.

J. Denaro
Vice-President, Treasurer & CFO

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*Because of it final drying process Vanox ZMTI is not granular like Vulkanox ZMB 2/C5 and is therefore much easier to disperse

- *Mercapto* identifies the SH present
- *Thione:* identifies the C=S present
- *Benzimidazole:* identifies that there in no methyl group (CH3) when it is identified elsewhere in the chemical description
- *Toluimidazole:* identifies that there is a methyl group present when it is not identified elsewhere in the chemical description

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Lubrizol Corporation
Wickliffe, Ohio 44092
August 17, 2005

Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Re: H.R. 2151

Dear Committee members:

The Lubrizol Corporation ("Lubrizol") is a long-standing specialty chemical manufacture that has produced a chemical equivalent (same CAS number) to Vulkacit

MOZ/SG and MOZ/LG since the 1950's. The removal of the import duty results in Lubrizol being at a disadvantage with our foreign competitors.

Sincerely,

David L. Cowen
Manager, Public Affairs

R.T. Vanderbilt Company, Inc.
Norwalk, Connecticut 06855
August 31, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to express the strong opposition of R.T. Vanderbilt Company, Inc. ("RTV") to H.R. 2152, the duty suspension bill now pending before your subcommittee, that would temporarily suspend the current 6.5 percent import duty on VULKANOX ZMB–2/C5. RTV produces in its chemical plant in Murray, Kentucky a virtually identical product, except for an immaterial difference in zinc content, called VANOX® ZMTI Antioxidant. The attached table clearly demonstrates the equivalency of VULKANOX ZMB–2/C5 and VANOX ZMTI. For example, the two products have the same chemical formula, structure, CAS No. and EINECS No. I am also attaching the first page of our "Material Safety Data Sheet" for VANOX ZMTI (also available at our website, www.rtvanderbilt.com), which provides further information.

RTV sells VANOX ZMTI for use in the rubber and plastics markets as a synergistic antioxidant that greatly improves the performance of the other antioxidants with which it is combined in order to protect polymers against high heat, oxygen and steam. We have frequently competed head to head for sales with VULKANOX ZMB–2/C5 in both Europe and the United States. For example, in the United States, we have recently competed against VULKANOX ZMB–2/C5, which was then privately labeled by its U.S. distributor, for the account of a rubber products manufacturer located in Ohio.

VANOX ZMTI is critically important to our Murray, Kentucky facility, where we employ about 110 people. Although we produce several other products at that plant, VANOX ZMTI is by far the most important one in terms of investment, revenue stream, profitability, and employment. Thus, if the duty suspension bill is enacted into law, it could jeopardize the economics of our entire plant. RTV currently operates a second chemical manufacturing plant in Bethel, Connecticut. However, if, as we expect, we sustain a significant loss of sales of VANOX ZMTI as a result of the duty suspension, we would have to seriously evaluate whether we could continue to operate two plants. In other words, it could become necessary for us to consolidate our operations at one plant and close the other one. Thus, elimination of the duty on VULKANOX ZMB–2/C5 threatens to undermine the economics of our current business model and would have drastic effects on employment, investment, and profitability.

VULKANOX ZMB–2/C5 is a registered trademark of, and is produced in Europe by, Bayer AG. It is marketed in the United States by Lanxess Corporation, which is a U.S. subsidiary of a German company, Lanxess AG. Lanxess AG is a spinoff of Bayer AG. We are also aware of four other foreign producers of chemically equivalent products to VULKANOX ZMB–2/C5 that are located in India (Finornic Chemicals Pvt. Ltd. and Yasho Industries Pvt. Ltd.) and China (Puyang Willing Chemicals Co., Ltd. and Qingdao Rubber Chemicals Co., Ltd.). A U.S distributor called Sovereign Chemical Company of Akron, Ohio has offered a product called SOVCHEM® ZMTI to at least two U.S. customer accounts in direct competition with our VANOX ZMTI. The source of this product is either India or China. Thus, this duty suspension bill would greatly increase the threat to our company by providing a significant competitive advantage to numerous foreign producers

RTV is the only company that makes a product in the United States that competes directly with VULKANOX ZMB–2/C5 or its chemical equivalents imported from India and China. Because the chemical composition of the products that compete with VULKANOX ZMB–2/C5 is identical or nearly identical, they compete mainly on the basis of price. Thus, eliminating the current 6.5 percent import duty

will provide a significant competitive advantage to Lanxess AG and its U.S. subsidiary and to the Indian and Chinese producers and their importers over our competing product. Moreover, we expect that the International Trade Commission's report to the Committee will show a significant loss in revenue to the U.S. Treasury through the elimination of this duty.

Quite frankly, we do not understand why this legislation is needed, and its sponsor has not provided an explanation since he introduced it. RTV has ample capacity in its Kentucky plant to supply the foreseeable needs of customers in the U.S. Thus, there is no shortage of domestic-origin products, so the only result of the legislation would be windfall profits at our expense to the German, Indian and Chinese suppliers and importers.

It is also ironic that the European Union currently maintains a 6.5 percent ad valorem duty on our own exports of VANOX ZMTI to the EU. Thus, although the import tariff playing field is level right now because the EU and the U.S. maintain the identical duty, the duty suspension would tilt that field totally in favor of Lanxess. There is no reason why Congress should act in such an unfair way towards a domestic producer.

For all of these reasons, on behalf of RTV, we respectfully request that the House of Representatives not enact H.R. 2152.

J. Denaro
Vice-President, Treasurer & CFO

*Because of it final drying process Vanox ZMTI is not granular like Vulkanox ZMB 2/C5 and is therefore much easier to disperse

- *Mercapto* identifies the SH present
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- *Benzimidazole:* identifies that there in no methyl group (CH3) when it is identified elsewhere in the chemical description
- *Toluimidazole:* identifies that there is a methyl group present when it is not identified elsewhere in the chemical description

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Chemtura
Middlebury, Connecticut 06749
September 2, 2005

David Kavanaugh
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Kavanaugh:

Re: H.R. 2172

Chemtura is strongly opposed to the proposal to temporarily remove duties on the following product:

- Mercaptobenzothiazole disulfide (CAS 120–78–5) (Chemtura's product name is Naugard MBTS or Naugex MBTS) as requested in HR2172.

Chemtura manufactures approximately 5 million pounds per year in our Geismar, Louisiana plant. This product is sold into the rubber industry as a rubber accelerant.

Elimination of this duty into the U.S. would unfairly advantage European manufacturers, while Chemtura would be disadvantaged by being required to pay duties when importing into Europe. The EU import duty is 6.5 %, the same as the current U.S. rate when importing this material. Further, Chemtura will lose significant market share, resulting in reduced production and employment at the Geismar facility. In addition Chemtura is required by new regulations to invest significant funds for environmental protection, where some of our competitors in other regions are not being held to the same standards. If Chemtura faces lower priced competition, it may not be able to make those investments and will be forced to halt production.

The proposal to reduce the duties is being made by a major European based competitor of Chemtura, and is clearly designed to put Chemtura at a competitive disadvantage in the global marketplace.

Sincerely,

Elizabeth Thomasino
Manager, Imports and Customs

Lloyd N. Moon
Vice President, Government and Industry Affairs

Mitsubishi Gas Chemical America, Inc.
Washington, DC 20006
August 31, 2005

Hon. E. Clay Shaw, Jr.
Chairman Subcommittee on Trade House
Committee on Ways and Means
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

We write on behalf of our client, Mitsubishi Gas Chemical America, Inc. ("MGCA"), in response to your request for written comments on technical corrections to U.S. trade laws and miscellaneous duty suspension bills, announced July 25, 2005 (House Ways and Means Committee Release No. TR–3). Specifically, we express unqualified support on MGCA's behalf for H.R. 2179, introduced by the Honorable Randy Forbes of Virginia on May 5, 2005.

H.R. 2179, if enacted, would provide a two-year extension of the current temporary duty suspension on imports of hexanedioic acid, polymer with 1,3—benzenedimethanamine—the key ingredient in MGCA's packaging product, Nylon MXD6. Nylon MXD6 is a tough, transparent resin that affords superior protection for foods, keeping oxygen out and flavor and aroma in. Because of its properties, it has emerged as a highly regarded option for food and multi-function packaging, as well as other uses, in the U.S.

By extending the temporary duty suspension on imports of the key ingredient in Nylon MXD6, H.R. 2179 would defray the transition costs associated with MGCA's plans to augment domestic manufacture of the product at its new MGC Advanced Polymers ("MAP") facility in Colonial Heights, Virginia. Although MAP just came on-line this spring, it already is considering plans to increase production, as well as the possibility of manufacturing a new high-grade version of Nylon MXD6 that currently must be imported. These plans, if implemented, are expected to more than double the number of jobs at the facility, from 23 to 50. In addition to this direct economic benefit to Colonial Heights and the greater Richmond area, the expansion would benefit the scores of local suppliers of materials with which MAP does business. Likewise, MAP's U.S. customers would benefit from an increased and more readily available supply and variety of product. MGCA and MAP anticipate that H.R. 2179 would have only a de minimis impact on federal revenue through the end of Fiscal Year 2009, and know of no domestic producer of a like product that might be harmed if the bill were enacted.

Indeed, MGCA and MAP are new domestic producers that strongly support enactment of the bill. At a time when many manufacturers are moving overseas, MGCA has succeeded in establishing its new, 23-employee MAP facility thanks not only to growing U.S. demand for Nylon MXD6 but also to the current temporary duty suspension which H.R. 2179 would extend. This temporary duty suspension is helping to defray the cost of transitioning to domestic production. In fact, the transition is proving so successful that the MAP facility already is considering plans to increase its number of employees to 30 in order to expand production. Beyond these immediate plans, MAP also is contemplating domestic production of its new high-grade version of Nylon MXD6—a move that would create an additional 20 jobs in Colonial Heights, bringing the total number of employees at the plant to 50. This would mean that the facility will have more than doubled its workforce in just its first four years of operation.

As with MAP's initial start-up, the relief afforded by the temporary duty suspension is an important part of MAP's future expansion plans. The suspension is currently set to expire after December 31, 2006. By extending the duty suspension to the end of 2008, H.R. 2179 would help the company recoup some of the costs of beginning domestic manufacture of its high-grade product.

Importantly, the anticipated benefits of H.R. 2179 would come with little or no negative impact on federal revenue. We estimate that federal revenues over the next five fiscal years, if the ordinary rate of duty were to apply, would be as follows: $410,000 in Fiscal Year 2005; $137,000 in Fiscal Year 2006; $68,000 in Fiscal Year 2007; $68,000 in Fiscal Year 2008; and $34,000 in Fiscal Year 2009. These steady, significant reductions in projected duties from year to year are largely the result of MGCA's switch to domestic manufacturing at its MAP facility. As MAP supplies more and more of the domestic demand for Nylon MXD6, there will be less and less imported from abroad. Also, it should be noted that the projections for Fiscal Years 2005 and 2006 are entirely theoretical—in reality, no duties will be paid in those years because of the currently existing temporary duty suspension that took effect in mid-December, 2004, and that expires at the end of 2006.

We are aware of no domestic producer of a like product, and are aware of no one who might be harmed by the two-year extension of temporary duty suspension proposed in H.R. 2179. To the contrary, MGCA and its MAP facility are domestic producers and employers that would be helped by enactment of the bill. H.R. 2179 would also indirectly benefit the MAP facility's customers, which are located in Virginia and throughout the United States. Companies like Westvaco in Low Moor, Virginia; Honeywell in Chester, Virginia—as well as Owens-Illinois in Ohio and South Carolina, Ball Corporation in New York, Gunze Plastics & Engineering in Kansas, and Crown Cork & Seal in Mississippi—all would benefit from MAP's domestic expansion plans, and those plans would be facilitated in part by enactment of H.R. 2179. Similarly, MAP purchases products and services from scores of Virginia-based vendors (66 at last count), many of which are small or medium-sized businesses, and all of which would undoubtedly benefit from MAP's proposed expansion.

Because of its anticipated domestic benefits, its likely de minimis impact on federal revenue for the next five fiscal years, and the absence of domestic producers of a like product that might be harmed by its enactment, H.R. 2179 is not only noncontroversial but also a beneficial piece of legislation. As such, we respectfully urge that it be included in any miscellaneous trade legislation the Trade Subcommittee and the full Committee may report in the 109th Congress.

Thank you for considering these comments.

Simeon M. Kriesberg

Jeffrey H. Lewis

Velsicol Chemical Corporation
Rosemont, Illinois 60018
September 2, 2005

Congressman Clay Shaw
House Committee on Ways and Means
U.S. House of Representatives
Washington, DC

Dear Congressman Shaw:

We are writing to oppose the inclusion of H.R. 2221 in the Miscellaneous Duty Suspension Bill now being considered by the Committee. Velsicol Chemical Corporation, with headquarters in Rosemont, Illinois, has a long standing history as a solid and responsible American chemical company, with manufacturing facilities located in Chattanooga and Memphis, Tennessee, Chestertown, Maryland, as well as in Estonia. We produce a number of chemical products, many of them plasticizers. The product which is included in H.R. 2221, Mesamoll, is directly competitive with products which Velsicol produces and sells domestically in the United States, and, in other markets. We have experienced increased price pressure over the past several years, and have just discovered that a significant part of the reason for this is that the manufacturer of Mesamoll requested and was granted an import duty suspension a few years ago. We do not understand why this has happened, particularly in light of the fact that Mesamoll is primarily produced in Germany, and, Germany has not eliminated the duty on Velsicol's competitive product which is shipped from the United States. Lanxess Corporation, which again has made this request to waive duty, was formed from a large portion of Bayer Chemicals Corporation's chemical portfolio and has a high volume of sales in our country. The pending Bill was brought to Velsicol's attention by an industry analyst, at the USITC, who noted the competitiveness of our products and sent us a notice for comment.

Mesamoll, CAS No. 70775–94–9, is a plasticizer used to modify plastics such as PVC in a variety of applications, including automotive parts, coated fabrics such as

tarps, molded plastic items, adhesives and sealants, and elastomeric coatings. It is an alternative to phthalate plasticizers. As noted above, this product is produced by Lanxess in Uerdingen, Germany.

Velsicol produces plasticizers in the United States at its manufacturing facilities located in Chattanooga, Tennessee, and in Chestertown, Maryland. The Chattanooga facility has been in operation since 1948 and is an important economic contributor to that community, with 44 acres of land and 86 employees. Our facility in Chestertown was built in 1959 and purchased by Velsicol in 1994. It is also represents a significant economic asset to that area, owning 20 acres and employing 44 persons.

The trade name for Velsicol's alternative to phathalate plasticizers is Benzoflex®. There are several different variations of Benzoflex technology which are competitive to Mesamoll as a "phthalate-alternative" plasticizer. The majority of Benzoflex products sold are blends of the following CAS number: 27138–31–4, 120–56–9. In 2004, Velsicol's NAFTA sales of these products exceeded $25,000,000.00. Sales into Europe from the United States are more constrained due in large part to the 6.5% import duty imposed by the EU. Although the recent inclusion of Estonia as an EU member state permits sale of the Benzoflex products manufactured at the Estonian facility into Europe duty free, Velsicol would very much like to be competitively situated so that it could increase its sales into Europe of the Benzoflex products which are manufactured at its U.S. facilities.

Frankly, we do not understand why the EU should get a "free ride" on this product when they maintain their tariffs on directly competitive products. It seems to us completely illogical that Congress would suspend a duty, based upon the request of a German company, in light of the fact that U.S. companies are manufacturing competitive products. This just does not seem right to us.

We request that you remove this Bill from your larger package of duty suspension Bills. If we can provide the Committee with additional information, please don't hesitate to contact Velsicol's Senior Corporate Counsel, Elizabeth Karkula.

Thank you for your attention to this matter.

Arthur R. Sigel
Chief Executive Officer & President

Celanese
Washington, DC 20004
September 2, 2005

The Hon. E. Clay Shaw Chairman,
Subcommittee on Trade
Committee on Ways & Means
1102 Longworth HOB
Washington, DC 20515–6348

Celanese conditionally objects to miscellaneous tariff bill H.R. 2226 that calls for the elimination of import duties on " Ethylene-vinyl acetate copolymers containing 50% by weight vinyl acetate monomer (CAS No. 24937–78–8) (provided for in subheading 3905.29.00)".

Aqueous dispersions of ethylene-vinyl acetate (VAE) copolymers being imported from Taiwan are a direct substitution for one of Celanese's large volume polymer emulsion products used in the adhesives industry. The Taiwan VAE aqueous dispersion directly competes with our domestically produced VAE dispersions over a wide range of adhesive applications in packaging, wood, and decorative lamination.

Taiwan imports of aqueous dispersions of VAE are growing rapidly. Currently 5–10 adhesive manufacturers are importing from Taiwan, while 5–10 additional manufacturers are evaluating the material. This is a direct threat to the commercial interests of Celanese's Emulsions Division and the livelihood of 500 U.S. citizens employed by Celanese at locations in Bridgewater, NJ; Dallas, TX; Enoree, SC; and Meredosia, IL in the manufacture and administration of our Emulsions Division. If the duty is suspended on imports of aqueous VAE dispersions, market penetration will accelerate rapidly further exacerbating the competitiveness of the domestic industry.

Celanese conditionally objects to H.R. 2226 unless the material description in the bill is changed as follows:

- 9902.07.54 . . . Ethylene-vinyl acetate copolymers, other than those in aqueous dispersions, containing 50% or more by weight vinyl acetate monomer (CAS No. 24937–78–8) (provided for in subheading 3905.29.00).

Celanese appreciates the opportunity to provide comment. I would be pleased to provide additional information at the Committee's request.

Bob Carpenter
Celanese Governmental Affairs

Lanxess Corporation
Pittsburgh, Pennsylvania 15275
September 6, 2005

The Hon. E. Clay Shaw Chairman,
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw,

LANXESS Corporation would like to affirm its support for H.R. 2226—a bill to temporarily suspend the duty on U.S. imports of certain ethylene-vinyl acetate copolymers. If implemented, this tariff suspension would benefit LANXESS and its industrial customers that use this raw material in a number of applications.

In addition, LANXESS endorses proposed changes to the article description of this provision that would clarify the scope of the bill. The following language would be acceptable to LANXESS Corporation:

- 9902.07.54 . . . Ethylene-vinyl acetate copolymers, other than those in aqueous dispersions, containing 50% or more by weight vinyl acetate monomer (CAS No. 24937–78–8) (provided for in subheading 3905.29.00).

LANXESS Corporation, which was spun-off from Bayer in January 2005, manufactures high-quality products in the areas of chemicals, synthetic rubber and plastics. In 2004, LANXESS units employed about 2,100 persons in the United States.

Jamie B. Schaeffer

Sybron Chemicals Inc.
Birmingham, New Jersey 08011
August 23, 2005

To Whom It May Concern:

Sybron Chemicals Inc. strongly opposes the implementation of H.R. 2265. H.R. 2265 would eliminate the import duty for a product group, which is produced on a regular basis in our production facility in Birmingham, NJ. The elimination of the import duty would greatly impact the future of the 120 employees of our production facility just under strong low cost competition from mostly Asian imports.

Sybron Chemicals Inc. specializes in the production of polymer resins and ion exchange resins at our Birmingham, NJ production facility, which employs 120 people.

Ralf P. Matt
President

Purolite Company
Bala Cynwyd, Pennsylvania 19004
September 1, 2005

Committee on Ways and Means
U.S. House of Representataives
1102 Longworth House Office Building
Washington, DC 20515

To whom it May Concern:

I am the Executive Vice President of the Purolite Company and have been in communications with Dr. Raymond Cantrell of the U.S. International Trade Commission. I would like to voice my protest to House Bill H.R. 2266. The reason for our

objection is that we are a manufacture of ion exchange products in Philadelphia, PA and see no reason why this bill should subsidize an importer when these products are being produced in the USA.

Don Brodie

Sybron Chemicals Inc.
Birmingham, New Jersey 08011
August 23, 2005

To Whom It May Concern:

Sybron Chemicals Inc. strongly opposes the implementation of H.R. 2266. H.R. 2266 would eliminate the import duty for a product group, which is the core of Sybron Chemicals Inc., production in Birmingham, NJ. This product group is in strong, low cost competition with imports from Asia, mainly China and India. The elimination of the import duty would greatly impact the future of the 120 employees of our production facility.

Sybron Chemicals Inc. specializes in the production of polymer resins and ion exchange resins at our Birmingham, NJ production facility, which employs 120 people.

Ralf P. Matt
President

Statement of Thomas St. Maxens, Mattel, Inc.

This statement is submitted on behalf of Mattel, Inc. in connection with the July 25, 2005 request for public comment by the Subcommittee on Trade of the Committee on Ways & Means regarding duty suspension proposals. Mattel strongly supports the passage of the following five duty suspension bills which cover certain toy-related products of interest to Mattel: H.R. 2285; H.R. 2286; H.R. 2287; H.R. 2288; and H.R. 2289.

Headquartered in El Segundo, California, Mattel is the world's largest toy company with 2004 sales of $5.1 billion in over 150 countries. Mattel has 25,000 employees, of whom 6,000 are in the United States.

At the urging of the U.S. toy industry, the U.S. government agreed to eliminate U.S. tariffs on all toys as part of a multilateral "zero-for-zero" sectoral agreement in the Uruguay Round of WTO trade negotiations. However, the U.S. Customs Service has classified certain toy-related articles of significant interest to Mattel and other U.S. toy companies in dutiable non-toy HTS subheadings. These five bills would temporarily suspend the applicable duties for these narrowly-defined toy-related articles through December 31, 2008, with three of the bills providing for an extension of existing duty suspension provisions previously enacted as part of the Miscellaneous Trade and Technical Correction Act (H.R. 1047).

As summarized below, four of the bills concern the containers in which certain toys are sold and/or stored. Customs has ruled that, in certain instances, these containers must be classified under separate non-toy HTS subheadings. The four container-related bills have been narrowly drafted to ensure that only toy-related articles would qualify for the duty suspensions, and the association representing U.S. producers of travel goods and similar articles has indicated it does not oppose the proposed bills.

Extensions of existing duty suspension provisions:

H.R. 2285: Covers bags of a type classified under HTS 4202.92.45, typically clear plastic backpack—or lunchbox-type bags, for carrying or holding toys, imported and sold with the toys already in the bag (existing duty suspension provision 9902.01.78 expires December 31, 2006).

H.R. 2286: Covers cases or containers of a type classified under HTS 4202.92.90 that are specifically designed for ViewMaster-type reels (existing duty suspension provision 9902.01.81 expires December 31, 2006).

H.R. 2287: Covers the traditional ViewMaster-type viewer classified by Customs as an "optical instrument" under HTS 9013.80.90 rather than as a toy under Chapter 95 (existing duty suspension provision 9902.01.80 expires December 31, 2006).

New duty suspension provisions:

H.R. 2288: Covers cases or containers of a type classified under HTS 4202.92.90 that are specifically designed, marketed or intended for toys, except those covered by existing duty suspension provision 9902.01.81 (see above) covering ViewMaster-type reel cases.

H.R. 2289: Covers cases or containers of a type classified under HTS 4202.12.80 that are specifically designed, marketed or intended for toys.

We appreciate this opportunity to share Mattel's views with the Ways & Means Trade Subcommittee.

Statement of Louis S. Shoichet, Tara Toy Corporation

The following statement is submitted on behalf of Tara Toy Corporation in response to the Subcommittee's request for public comment in connection with proposed legislation currently under consideration before the Subcommittee to temporarily suspend duty on certain products.

Tara Toy Corporation strongly supports the Subcommittee's favorable action and passage of five bills that have been introduced for the purpose of providing for the temporary duty suspension for certain toy related products. These bills are H.R. 2285, H.R 2286, H.R 2287, H.R 2288, and H.R. 2289.

Tara Toy Corporation is a United States toy and toy accessory company, headquartered in Hauppauge, New York, and with offices located in New York and Florida. The company is a domestic manufacturer, importer and distributor of toy and toy related products, including specially designed cases and containers for toys and dolls. In addition to its domestic manufacturing operation, the company maintains an extensive product development and design facility in the United States to support the operations of the company. Merchandise manufactured and sold by Tara Toy is distributed throughout the United States and worldwide.

Passage of the bills identified above would serve to support and strengthen the continued operations of the company and is of significant interest to Tara Toy Corporation.

Respectfully submitted,

Louis S. Shoichet
Tompkins & Davidson, LLP
New York, New York 10036
On behalf of Tara Toy Corporation

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Tompkins & Davidson, LLP
New York, New York 10036
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This statement is submitted on behalf of Mattel, Inc. in connection with the July 25, 2005 request for public comment by the Subcommittee on Trade of the Committee on Ways & Means regarding duty suspension proposals. Mattel strongly supports the passage of the following five duty suspension bills which cover certain toy-related products of interest to Mattel: H.R. 2285; H.R. 2286; H.R. 2287; H.R. 2288; and H.R. 2289.

Headquartered in El Segundo, California, Mattel is the world's largest toy company with 2004 sales of $5.1 billion in over 150 countries. Mattel has 25,000 employees, of whom 6,000 are in the United States.

At the urging of the U.S. toy industry, the U.S. government agreed to eliminate U.S. tariffs on all toys as part of a multilateral "zero-for-zero" sectoral agreement in the Uruguay Round of WTO trade negotiations. However, the U.S. Customs Service has classified certain toy-related articles of significant interest to Mattel and other U.S. toy companies in dutiable non-toy HTS subheadings. These five bills would temporarily suspend the applicable duties for these narrowly-defined toy-related articles through December 31, 2008, with three of the bills providing for an extension of existing duty suspension provisions previously enacted as part of the Miscellaneous Trade and Technical Correction Act (H.R. 1047).

As summarized below, four of the bills concern the containers in which certain toys are sold and/or stored. Customs has ruled that, in certain instances, these containers must be classified under separate non-toy HTS subheadings. The four container-related bills have been narrowly drafted to ensure that only toy-related articles would qualify for the duty suspensions, and the association representing U.S. producers of travel goods and similar articles has indicated it does not oppose the proposed bills.

Extensions of existing duty suspension provisions:

H.R. 2285: Covers bags of a type classified under HTS 4202.92.45, typically clear plastic backpack—or lunchbox-type bags, for carrying or holding toys, imported and sold with the toys already in the bag (existing duty suspension provision 9902.01.78 expires December 31, 2006).

H.R. 2286: Covers cases or containers of a type classified under HTS 4202.92.90 that are specifically designed for ViewMaster-type reels (existing duty suspension provision 9902.01.81 expires December 31, 2006).

H.R. 2287: Covers the traditional ViewMaster-type viewer classified by Customs as an "optical instrument" under HTS 9013.80.90 rather than as a toy under Chapter 95 (existing duty suspension provision 9902.01.80 expires December 31, 2006).

New duty suspension provisions:

H.R. 2288: Covers cases or containers of a type classified under HTS 4202.92.90 that are specifically designed, marketed or intended for toys, except those covered by existing duty suspension provision 9902.01.81 (see above) covering ViewMaster-type reel cases.

H.R. 2289: Covers cases or containers of a type classified under HTS 4202.12.80 that are specifically designed, marketed or intended for toys.

We appreciate this opportunity to share Mattel's views with the Ways & Means Trade Subcommittee.

Statement of Louis S. Shoichet, Tara Toy Corporation

The following statement is submitted on behalf of Tara Toy Corporation in response to the Subcommittee's request for public comment in connection with proposed legislation currently under consideration before the Subcommittee to temporarily suspend duty on certain products.

Tara Toy Corporation strongly supports the Subcommittee's favorable action and passage of five bills that have been introduced for the purpose of providing for the temporary duty suspension for certain toy related products. These bills are H.R. 2285, H.R 2286, H.R 2287, H.R 2288, and H.R. 2289.

Tara Toy Corporation is a United States toy and toy accessory company, headquartered in Hauppauge, New York, and with offices located in New York and Florida. The company is a domestic manufacturer, importer and distributor of toy and toy related products, including specially designed cases and containers for toys and dolls. In addition to its domestic manufacturing operation, the company maintains an extensive product development and design facility in the United States to support the operations of the company. Merchandise manufactured and sold by Tara Toy is distributed throughout the United States and worldwide.

Passage of the bills identified above would serve to support and strengthen the continued operations of the company and is of significant interest to Tara Toy Corporation.

Respectfully submitted,

Louis S. Shoichet
Tompkins & Davidson, LLP
New York, New York 10036
On behalf of Tara Toy Corporation

Oscient Pharmaceuticals Corporation
Waltham, Massachusetts 02451
August 31, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 LHOB
Washington, DC 20515–6348

Dear Mr. Chairman:

Thank you very much for inviting comments on pending miscellaneous duty suspension legislation. Oscient Pharmaceuticals Corporation (Oscient) strongly supports H.R. 2380, a bill to suspend temporarily the duty on gemifloxacin.

As background, Oscient imports the active ingredient for its FACTIVE® (gemifloxacin mesylate) tablets, an important new antibiotic approved by the FDA for the treatment of community-acquired pneumonia and acute exacerbations of chronic bronchitis. The active ingredient, gemifloxacin, is currently dutiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2933.99.4600. The active ingredient is shipped as the salt "gemifloxacin mesylate," or the hydrated salt "gemifloxacin mesylate sesquihydrate."

The 1995 multilateral agreement on "zero-for-zero" trade in pharmaceutical products required that each product be named in the Pharmaceutical Appendix of the HTS U.S. in order to be duty free. The Pharmaceutical Appendix is periodically updated through multilateral negotiations and recommendations by the U.S. Trade Representative. Unfortunately, this process is years behind the creation and naming of new pharmaceutical products. The last update to the Pharmaceutical Appendix occurred six years ago, on July 1, 1999. Other products that compete indirectly with gemifloxacin, known as "fluoroquinolones," are already listed in the Pharmaceutical Appendix, and are therefore imported duty free.

We have been advised by the USTR that the addition of Gemifloxacin to the Pharmaceutical Appendix is not seen as controversial and is supported by the USTR. Other unrelated issues in the multilateral negotiations on amending the Appendix, however, will likely delay its implementation until next year.

The purpose of H.R. 2380 is to give Oscient temporary relief from customs duties while the USTR works to amend the Pharmaceutical Appendix with other countries. Once listed on the Appendix, gemifloxacin will be permanently and unconditionally duty free.

The effective date proposed in the bill, January 1, 2005, is intended to give Oscient some relief due to the long delay in updating the Pharmaceutical Appendix. Gemifloxacin was recommended for addition to the "International Nonproprietary Names (INN) for pharmaceutical substances" by the World Health Organization in 2000 and could have been added to the HTS Pharmaceutical Appendix at any time after that.

The original Appendix was effective on January 1, 1995 and was previously amended on April 1, 1997 and July 1, 1999. Gemifloxacin, recognized by the INN in 2000, lacks duty free treatment only because of the extensive delay in updating the Appendix.

Obtaining duty free status for gemifloxacin is an important step in our growth as an emerging biopharmaceutical company committed to the development and commercialization of important new therapeutics. Oscient respectfully requests your support of H.R. 2380.

Please do not hesitate to contact us if there is any additional information we can provide.

Steven Rauscher
President and Chief Executive Officer

Stephen Cohen
Chief Financial Officer

Micron Technology, Inc.
Boise, Idaho 83707
September 2, 2005

The Hon. E. Clay Shaw Chairman,
Trade Subcommittee
Committee on Ways and Means
1102 Longworth House Office Bldg.
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to express Micron's support of H.R. 2469, a bill that would reinstate the temporary duty suspension for gold bonding wire used in the semiconductor manufacturing process.

Gold bonding wire is an indispensable material used in assembling semiconductors and integrated circuits. In the semiconductor assembly process, very fine gold wire is used to connect the pads on the semiconductor die to the leads on the leadframe of the semiconductor package.Semiconductor-grade gold wire is unlike gold wire used for any other application. Such wire is very fine, with a diameter of 0.06 millimeters or less, and it is very pure, usually having a purity of 99.99 percent or greater. Semiconductor gold bonding wire also contains very specific dopants, which are added to control wirebonding characteristics. This type of gold wire is used only for semiconductors and integrated circuits and cannot be used for any other purpose.

Semiconductor gold bonding wire is classified under Harmonized Tariff Number 7108.13.7000, and currently carries a duty rate of 4.1 percent. The duty on this product was suspended as a result of legislation passed in October 1996, which was extended again in 2000. This temporary suspension lapsed on December 31, 2003, and there was not an opportunity to extend it due to the difficulties with passage of the last miscellaneous tariff bill. For this reason, the bill would retroactively apply the suspension back to the date when the last suspension lapsed.

Gold bonding wire should be duty free on a permanent basis. The "zero-for-zero" round of duty elimination negotiations that took place during the Uruguay Round and the Information Technology Agreement eliminated most of the duties on semiconductor manufacturing equipment and materials. Gold bonding wire was overlooked during these negotiations. United States duties were eliminated on the end product, semiconductors, in the 1980's.

There is clear historical industry consensus regarding duty suspension for gold bonding wire. Such suspension would benefit any U.S. company assembling semiconductors in the United States. As noted above, gold bonding wire for semiconductors was included in a temporaryduty suspension bill passed in October 1996, which was extended again in 2000. In conjunction with those bills, no adverse comments were received. In fact in relation to the suspension passed in 1996, Victoria Hadfield, filing comments on behalf of Semiconductor and Equipment Manufacturers International ("SEMI"), stated that for gold bonding wire "I can identify no do-

mestic opposition to these proposed tariff reductions and would support (its) passage." SEMI's support is important because this trade organization represents the U.S. producers of materials used in the semiconductor manufacturing process. The Semiconductor Industry Association, the trade association representing U.S. semiconductor manufacturers, has also supported duty suspension for gold bonding wire in the past.

Duty free treatment for gold bonding wire would make U.S. semiconductor manufacturers more competitive and would reinforce and encourage greater assembly of semiconductors in the United States, rather than abroad where many assemblers already enjoy duty free treatment of material inputs and equipment.

Finally, this legislation is non-controversial because, to our knowledge, there are no companies that make semiconductor gold bonding wire in the United States. We also believe the revenue impact of this legislation would be de minimis.

If you have any questions regarding these comments, please do not hesitate to contact me. Thank you for your help on this important legislation.

Roderic W. Lewis
Vice President of Legal Affairs & General Counsel

AK Steel Corporation
Middletown, Ohio 45043
August 30, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

We note your advisory dated July 25, 2005 requesting written comment on technical corrections to U.S. trade laws and Miscellaneous Duty Suspension bills. Among the bills listed in the release is H.R. 1121, a bill to repeal Section 754 of the Tariff Act of 1930, the Continued Dumping and Subsidy Offset Act (CDSOA) of 2000, and the related measure, H.R. 2473. AK Steel strongly opposes both of these measures. We believe the consideration of these measures at this time would seriously undermine the direction of U.S. trade policy as established by the Administration and by Congress itself.

Headquartered in Middletown, Ohio, AK Steel produces flat-rolled carbon, stainless and electrical steel products, as well as carbon and stainless tubular steel products for automotive, appliance, construction, and manufacturing markets. We have manufacturing facilities in Pennsylvania, Indiana, and Kentucky which employ a total of about 8,000 men and women. In March of this year we were named one of America's "most admired companies" in a survey conducted by Fortune magazine that rated companies on eight criteria, including quality of management, innovation, and quality of products and services.

The antidumping and subsidies laws were negotiated, written and endorsed by the world's trading nations over 50 years ago. They are well-recognized, well-established remedies for unfair trade that are only available when a domestic industry conclusively proves that it has been injured by clearly demonstrated dumping.

We firmly believe that the Continued Dumping and Subsidy Offset Act has been and continues to be an appropriate, effective, and legal response when foreign competitors engage in dumping or benefit from unfair subsidies. We strongly support the value of this measure that has been an effective tool in preserving the manufacturing base of this country in critical industries, and preventing the elimination of U.S. jobs.

We particularly oppose any legislative activity to repeal the CDSOA at this time. Congress itself recognized that the appropriate forum for determining the future of CDSOA payments is in international trade discussions. In January 2004, Congress, in the Consolidated Appropriations Act, directed the Administration to conduct negotiations within the World Trade Organization on the question of the rights of WTO members to distribute monies collected from antidumping and countervailing duties." The Administration has, in the current Doha Round, proposed that the relevant WTO agreements be revised to clarify that anti-dumping and countervailing duty payments may be distributed as the member country deems appropriate.

Repeal of the Continued Dumping and Subsidy Offset Act would be detrimental to the critical manufacturing sector of the economy, and would undermine internationally recognized principles of trade policy. Given Congress's statement in the 2004 appropriations measure, and the on-going consideration of these issues through the WTO, it would be particularly ill-advised to consider repeal of the legislation at this time. For these reasons, we strongly urge the committee to delete H.R. 1121, and the related measure, H.R. 2473, from the list of measures to be considered by the committee at this time.

Thank you for considering these comments.

Sincerely,

James L. Wainscott
President and CEO

Statement of Jon D. Walton, Allegheny Technologies Incorporated, Pittsburgh, Pennsylvania

Allegheny Technologies Incorporated ("ATI") submits these comments in strong opposition to H.R. 1121 in the Miscellaneous Tariff Bill ("MTB"), a bill to repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA" or "the Byrd Amendment"), and in opposition to H.R. 2473 (also contained in the MTB), which alters the calculation of the "all others" rate in the antidumping and countervailing duty cases and would significantly reduce the amount of duties collected and distributed under CDSOA. We believe that continuation of the Byrd Amendment in its current form is essential to preserving the remedial effect of the U.S. antidumping and countervailing duty laws.

ATI is one of the largest and most diversified specialty materials producers in the world with revenues of approximately $2.7 billion in 2004. ATI has approximately 9,000 full-time employees world-wide who use innovative technologies to offer growing global markets a wide range of specialty materials solutions. ATI's products include nickel-based alloys and superalloys, titanium and titanium alloys, stainless and specialty steels, zirconium, hafnium, and niobium, tungsten materials, silicon and tool steels, and forgings and castings.

ATI Allegheny Ludlum, an Allegheny Technologies company, is a world leader in the production and marketing of sheet, plate, and strip specialty materials including stainless steel, nickel-based alloys, titanium, and titanium-based alloys. The company also produces grain-oriented silicon electrical steel products, and tool steel plate. Allegheny Ludlum has approximately 3,700 full-time employees principally located in the United States.

Allegheny Ludlum has received CDSOA disbursements since the inception of the program in 2001. In 2004, Allegheny Ludlum received CDSOA disbursements of approximately $2.5 million. These disbursements have had a positive effect on Allegheny Ludlum's net income, investment in property, plant and equipment, research and development and employment, which, in turn, have had a positive effect on the company's ability to compete.

We understand that H.R. 1121 is intended to conform U.S. law to the January 16, 2003 decision of the WTO Appellate Body which found the CDSOA to be a nonpermissible "specific action against" dumping or subsidization. We believe that the Appellate Body's ruling is erroneous. Nothing in the WTO agreements addresses the ways that WTO members may use antidumping and countervailing duties once they have been paid.

The CDSOA does not impose sanctions against dumping or subsidization any greater than those permitted under the WTO agreements; the Byrd Amendment did not raise the amount of antidumping and countervailing duties permissible under U.S. law and the WTO agreements. It simply applies the duties collected in a manner designed to remedy the ongoing injury caused by the continuation of unfair trade practices.

ATI expects that Congress will actively support manufacturing jobs in the United States by opposing repeal of CDSOA and by supporting the U.S. government's sovereign right to distribute taxes as determined by Congress. We note that Congress has called for our trade negotiators in the ongoing Doha Round to push for revision of the WTO agreements so that CDSOA and similar programs relating to the use by individual countries of the antidumping and countervailing duties they collect will be expressly accepted as consistent with WTO. We believe that this approach would improve the effectiveness throughout the world of long-accepted disciplines

aimed at discouraging dumping and subsidization of exports. The United States and the world trading system would be better for it.

For these reasons, Allegheny Technologies Incorporated respectfully urges the Committee to report H.R. 1121 and H.R. 2473 unfavorably.

Statement of Jennifer L. Diggins, American Iron and Steel Institute

In response to the request for written comments with respect to technical corrections to U.S. trade laws and miscellaneous duty suspension proposals,[1] the American Iron and Steel Institute ("AISI") is pleased to provide the following comments regarding several of the bills listed in the Subcommittee's advisory (and proposed for inclusion in a miscellaneous trade package). As described below, these proposals are highly controversial, raise a number of substantive concerns and are *not* suitable for inclusion in a miscellaneous tariff bill.

H.R. 1121 (Repeal of "Byrd Amendment")

One of the measures listed in the Subcommittee's advisory for potential inclusion in the miscellaneous tariff bill is H.R. 1121, which would repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"), often referred to as the "Byrd Amendment" (providing for the distribution of unfair trade duties to companies and workers injured by unfair foreign practices). H.R. 1121 is not only highly controversial, but is unnecessary given that Congress has clearly expressed the view that the ongoing dispute relating to the Byrd Amendment should be resolved in international negotiations. Inclusion of this measure in the miscellaneous tariff package would clearly give rise to substantial opposition to the overall bill, and is certainly not appropriate given the historic practice of limiting this bill to non-controversial items. Several points are important in this regard.

First, the proposal to repeal the Byrd Amendment is apparently intended to implement the WTO Appellate Body's decision in *United States—Continued Dumping and Subsidy Offset Act of 2000*. The WTO decision in this case, however, has been roundly criticized, including by the Bush Administration, as an example of judicial overreaching and the creation of obligations not found in the applicable WTO agreements. While the WTO Appellate Body ruled that lawfully collected antidumping and countervailing duties may not be distributed to injured domestic producers, the fact is that the negotiators of the relevant WTO agreements never even considered, much less undertook, any restrictions on how WTO Members may spend lawfully collected duties. In finding otherwise, the Appellate Body simply invented obligations that were not agreed to by U.S. negotiators or approved by Congress.

Second, as Congress has recognized, this matter can and should be resolved through another, more appropriate avenue—the ongoing Doha Round of WTO negotiations. In this regard, the WTO's ruling in the Byrd case prompted 70 Senators to send a letter to President Bush in February 2003 urging him to seek, through trade negotiations, express recognition of the existing right of WTO Members to distribute monies lawfully collected from antidumping and countervailing duties as they saw fit. Moreover, Congress included in its Fiscal Year 2004 omnibus appropriations bill a provision directing the Bush Administration to immediately initiate WTO negotiations to recognize this right. The Bush Administration has now put this issue on the table of the Doha Round negotiations. This effort at a negotiated fix for the Appellate Body's decision should be given an opportunity to succeed—rather than rushing to repeal a critical U.S. law in the face of a flawed WTO dispute settlement decision.

The Byrd Amendment has served a critical role in allowing U.S. industries devastated by unfair trade, including the steel industry, to make necessary investments and regain their competitive footing. It is important to emphasize that Byrd Amendment funds are made available only where, and to the extent, unfair trade continues after antidumping or countervailing duty orders have been put in place. When dumping and subsidization do not cease even in the face of such orders, it is essential that Byrd Amendment funds be provided to the affected domestic producers that are injured by such market-distorting behavior. Repealing the Byrd Amendment would deliver a major blow to U.S. manufacturers—along with agricultural and fishery industries—at a time when they face growing challenges from unfair trade.

[1] See Advisory from the U.S. House of Representatives Committee on Ways and Means, Subcommittee on Trade, requesting comments on technical corrections to U.S. trade laws and miscellaneous duty suspension bills (July 25, 2005).

In short, including H.R. 1121 in the miscellaneous tariff package would be unwise, unnecessary and highly controversial. Rather than pursuing such flawed legislation, the United States should continue to seek a negotiated solution for this issue at the WTO.

H.R. 2473 (Changes to Calculation of "All Others" Rate)

The Subcommittee's advisory also lists H.R. 2473 among the potential measures for inclusion in a miscellaneous tariff bill. As with proposals to repeal the Byrd Amendment, this measure would be highly controversial and has no place in the legislation under consideration.

H.R. 2473 includes language amending the "all others" rate provision of the antidumping statute—once again, apparently intended to implement an adverse decision of the WTO Appellate Body. In particular, in *United States—Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan* ("*Japan Hot-Rolled*"), the Appellate Body found that antidumping authorities may not calculate an "all others" antidumping duty rate for non-investigated companies using dumping margins that contain any element of "facts available."[2] (The use of so-called "facts available" relates to reliance on alternative sources of information where a respondent fails to provide complete or accurate information in the course of an antidumping proceeding). As the Bush Administration recognized when this decision was issued, the Appellate Body failed to follow the appropriate standard of review in reaching its decision and, as a result, the decision was deeply flawed.

Indeed, the Appellate Body's decision and the proposed amendment to the "all others" rate provision to implement it would raise a whole host of practical concerns about how meaningful "all others" rates could be calculated and about the administration of the antidumping law. Because the use of some degree of facts available is often required to calculate accurate trade remedy margins and meaningfully implement the statute, the Appellate Body's decision and the proposed amendment could make it impossible for the Department of Commerce to calculate an "all others" rate for non-investigated companies in many antidumping cases. This is a complex and controversial issue that certainly is not appropriately addressed in a miscellaneous tariff bill. As with the Byrd Amendment, the United States has also put this issue on the table of the Doha Round negotiations, and this effort should be allowed to proceed accordingly.

We appreciate the opportunity to provide these comments to the Subcommittee and hope that they will be taken into account in ongoing deliberations regarding the miscellaneous tariff bill.

Barnes & Thornburg LLP
Washington, DC 20006
September 2, 2005

The Honorable E. Clay Shaw, Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

On behalf of the National Candle Association ("NCA"), we hereby submit its comments to express NCA's vigorous opposition to inclusion of H.R. 2473 and H.R. 1949 in the package of miscellaneous tariff bills. H.R. 2473 will weaken the antidumping law by amending the way in which the Department of Commerce calculates the "All Others" dumping margin. This would make a substantial and harmful change to the antidumping law by making it exceedingly difficult in a large number of cases for the Department of Commerce to calculate an "All Others" dumping rate for non-investigated exporters. This bill would not be administrable and has already attracted substantial opposition from U.S. manufacturers.

The "All Other" rate applies to exporters that were not investigated and is based on the weighted average of dumping margins calculated for exporters that were investigated. H.R. 2473 would prohibit the Department of Commerce from calculating the "All Others" rate from any margins based on facts available. In many cases, this

[2] "All others" rates are applied to non-investigated companies in antidumping cases and are calculated based on the duty rates of individually investigated producers. *See* 19 U.S.C. § 1673d(c)(5).

would effectively prohibit Commerce from calculating an "All Others" rate. This creates an administrative barrier for Commerce, and the bill provides no alternative method of calculating the "All Others" rate.

H.R. 2473 is not a technical change, but rather a substantial substantive change that will weaken the antidumping law, create controversy and cause strong opposition from the U.S. manufacturing community. Congress has consistently refused to include any controversial measure in previous bills, such as this Technical Corrections and Miscellaneous Duty Suspension bill. A "non-controversial" miscellaneous trade bill is not an appropriate vehicle to make legislative changes to trade remedy laws.

H.R. 1949 proposes to reliquidate entries of imports of candles without the assessment of antidumping duties or interest and a refund of any antidumping duties and interest which were previously paid on such entries. The subject imports that entered the United States in the year 2000 are subject to a 65% antidumping duty. The respondents appealed the Department of Commerce decision to impose a 65% antidumping duty on imports on candles from China. The Court of International Trade affirmed the decision of the Department of Commerce, and the Court of Appeals for the Federal Circuit dismissed the respondent's appeal. H.R. 1949 is an attempt to overrule the decisions of the Department of Commerce, the Court of International Trade, and the Court of Appeals for the Federal Circuit. This bill is controversial, not administrable, and blatantly operates retroactively. H.R. 1949 has no place in a "non-controversial" miscellaneous trade bill.

Randolph J. Stayin
Counsel to the National Candle Association

National Candle Association
Written Comments to H.R. 2473—Change and Method for Calculating "All Other" Rates, Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills

SUPPLEMENTAL SHEET

List of witnesses to the September 2, 2005 submission filed by Randolph J. Stayin on behalf of the National Candle Association:

On behalf of the National Candle Association:

Ms. Valerie B. Cooper
Executive Vice President
National Candle Association

Counsel to the National Candle Association:

Randolph J. Stayin, Esq.
Barnes & Thornburg LLP

California Minnesota Honey Farms
Eagle Bend, Minnesota 56446
August 28, 2005

My name is Jeff Anderson; I operate a migratory beekeeping operation California Minnesota Honey Farms based in Oakdale California and Eagle Bend Minnesota. My operation is or *was,* geared primarily toward honey production. Unfair competition primarily from China has severely cut into domestic honey pricing. Anti dumping followed by the Byrd Amendment have helped domestic honey prices attain workable levels.

I am writing because of my concerns with the 2005 Miscellaneous Tariff Bill. There are two very troubling portions; H.R. 1121 and H.R. 2473.

I am strongly opposed to HR 1121 because it will repeal the Continued Dumping and Subsidy Offset Act of 2000. (CDSOA) CDSOA, The Byrd Amendment was responsible for getting and keeping domestic honey prices at a level which kept my beekeeping operation solvent. With 2003 through early 2004 honey prices, the roughly 350,000 lbs I produce grossed about $525,000, if prices fall to Chinese levels that same crop will gross $168,000. In 2004 my tax return showed about $25,000 'profit'. *DO THE MATH; I can not compete* against cheap Chinese honey produced by 'slave labor'. Communist economies are driven by government greed, not real life cost of doing business. If a product cost to much to produce simply pay your 'slaves' less to produce it; undercut your competition until they cease to exist; then raise the price to a profitable levels. My operation will cease to exist if the Byrd Amendment is repealed, and honey prices fall to and stay at 'Chinese' levels.

I am also opposed to HR 2473. HR 2473 will 'alter' the calculation for 'all others' and will significantly reduce duties collected. The effect will be more financial incentive for the Chinese to import cheap, substandard honey.

The proposed repeals amount to 'outsourcing'. 'Outsourcing' honey will put U.S. beekeepers out of business. Putting U.S. beekeepers out of business will have a ***HUGE*** ripple effect. Honeybees are responsible for a large portion of food produced. There is already a large outcry from crop growers that require insect pollination to set their crops. Honeybees are in short supply. Putting the pollinator's 'managers' out of business by trying to save consumers a few pennies in retail honey prices is folly. It is not possible to 'outsource' pollination!!! The pennies saved will cost thousands in the long run. Crop shortfalls will cause food prices to skyrocket.

PLEASE!!! Apply some uncommon sense; do not repeal CDSOA, ***VOTE NOT ON (H.R. 1121).*** PLEASE!!! Do not alter the duties collected; ***VOTE NO ON (HR 2473).***

Thanks for you consideration and actions in this matter.

Sincerely

Jeff Anderson
Owner and operator

California Cut Flower Commission
Watsonville, California 95077
September 1, 2005

The Honorable E. Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

On July 25, 2005, the Subcommittee issued Advisory No. TR–3. which requested comments for the record regarding proposed bills concerning "technical corrections to U.S. trade laws and miscellaneous duty suspension proposals." A list of these miscellaneous trade bills is provided in the Advisory. This letter is the California Cut Flower Commission's response to the Subcommittee's request.

The California Cut Flower Commission (CCFC) represents over 300 cut flower growers in the state of California. These growers produce approximately 70% of the cut flowers grown in the United States.

In particular, the CCFC is concerned about, and opposes, two bills; H.R. 1121, and H.R. 2473. H.R. 1121 is "A bill to repeal section 754 of the Tariff Act of 1930" and H.R. 2473 is "A bill to amend the Tariff Act of 1930 relating to determining the all-others rate in antidumping cases." These bills are controversial and should be deleted from the final miscellaneous trade bill.

Strong Trade Remedy Laws Are Important To Fair Trade:

As the organization that represents the vast majority of cut flower producers in California, the CCFC is an unwavering supporter of strong trade law remedies. Effective and useable trade remedy laws are important tools to maintaining a level playing field for our industry in particular and more broadly for U.S. agricultural producers.

The CCFC believes that any attempt to weaken trade remedy laws in this bill or elsewhere, should be rejected. Absent strong trade remedy laws, it will be harder for U.S. companies and workers to compete fairly with subsidized and dumped imports. And, without effective and useable trade remedy laws on the books; market opening trade policies will lose the support of the American people.

H.R. 1121 and H.R. 2473 will undermine trade remedy laws in the ways detailed below. These bills are the type of controversial measures should not be included in a miscellaneous trade bill package.

Concerns about H.R. 1121:

- This bill proposes to repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"). CDSOA has strong bi-partisan support from Members of Congress and the public. Any attempt to repeal CDSOA would attract intense controversy and strong opposition.

- Under CDSOA, duties that are collected as a result of continued dumping or subsidization are distributed by the U.S. government to eligible domestic industries found to have been injured by dumped or subsidized imports.
- CDSOA has no effect on how dumping and subsidy rates are calculated or on how much in duties importers must pay. All it does is simply distribute collected monies when unfair trade practices by our foreign competitors do not cease.
- CDSOA distributes money only when dumping and subsidization continues after an order. If dumping and subsidization cease, no funds are collected or distributed.

Concerns about H.R. 2473:

- This bill proposes to weaken the antidumping law by deleting the word "entirely" from subparagraphs (A) and (B) of section 735(c)(5) of the Tariff Act of 1930. These provisions concern the calculation of the "all others rate."
- This proposal is not simply a technical change. In fact, it would make a significant and harmful change to the antidumping law by making it exceeding difficult in a large number of cases for the Department of Commerce to calculate an "all-others" dumping rate for non-investigated exporters.
- The "all-others" rate is the rate that applies to all exporters that were not investigated. It is calculated as the weighted average of the dumping margins calculated for those individual exporters that were investigated.
- Currently, Commerce does not include in the weighted average any margins based entirely on "facts available" data. Commerce does include in the weighted average margins based partially on "facts available." Margins based on partial facts available are not uncommon.
- Facts available" data (data substituted for actual company-specific data) is applied by Commerce when an exporter fails to submit data required to calculate a dumping margin.
- H.R. 2473 proposes to prohibit Commerce from calculating the "all others" rate from any margins based on facts available, partial or entire. This would mean that, in many case, there would be no useable margins from which to calculate an "all others" rate.
- In substance, H.R. 2473 would weaken the antidumping law. H.R. 2473 would cause severe problems for Commerce in carrying out its statutory responsibilities to administer the antidumping law.

A Miscellaneous Trade Bill is Not the Vehicle to Implement WTO Panel or Appellate Body Decisions

Another reason to delete H.R. 1121 and H.R. 2473 from a miscellaneous trade bill package is that they are legislation designed to change U.S. law in response to controversial decisions by WTO dispute panels and Appellate Body. A non-controversial miscellaneous trade bill is not the appropriate vehicle to make such legislative changes to trade remedy laws.

These bills clearly respond to specific cases where WTO panels and its Appellate Body have engaged in overreaching their authority. On both the CDSOA and the "all-others" rate issues, Congress and the Administration have expressed displeasure with this WTO overreach. These and other WTO decisions have tried to impose on the U.S. obligations that were not negotiated and which are not apparent from the text of the WTO Agreements.

In addition, Congress has consistently told the Administration to work to seek a resolution of these controversial decisions through negotiations at the WTO. The Administration is currently doing just that in the Doha Round negotiations. Both H.R. 1121 and H.R. 2473, if legislated, would interfere in these efforts.

In conclusion, H.R. 1121 and H.R. 2473 need to be expeditiously removed from the miscellaneous trade bill package. There is no reason to jeopardize the passage of the hundreds of other helpful and non-controversial bills contained in the package.

Lee Murphy
President/CEO

Cattle Producers of Washington
Soap Lake, Washington 98851
September 2, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

The Cattle Producers of Washington (CPoW) is submitting these comments in response to the Subcommittee's request for written comments for the record from all parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. CPoW is a non-profit state cattlemen's organization dedicated to promoting the health and long term stability of independent producers in Washington State. Being a border state, international trade policies greatly affect the profitability and viability of our state's third largest commodity industry.

CPoW welcomes the opportunity to comment on the bills being considered for inclusion in the miscellaneous package, in particular H.R. 1121, "A bill to repeal section 754 of the Tariff Act of 1930," and H.R. 2473, "A bill to amend the Tariff Act of 1930 relating to determining the all-others rate in antidumping cases."

H.R. 1121 and H.R. 2473 are not well suited for inclusion in the miscellaneous trade package. These bills are likely to attract significant controversy and would constitute major changes to U.S. trade remedy laws. CPoW supports maintaining strong and effective trade laws. Such laws are necessary to ensure a level playing field for Washington State ranchers, cattlemen, and farmers, as well as Washington State manufacturers and workers. In a fair market, U.S. producers are second to none. When foreign competitors flood the U.S. market with dumped and subsidized goods, however, the trade laws must be in place to provide a remedy for injury caused by unfairly traded imports. CPoW believes it would be inappropriate to use the miscellaneous trade bill to weaken those laws, but that will be the effect if H.R. 1121 and H.R. 2473 are included in the package.

H.R. 1121 proposes to repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"). CDSOA is a program that distributes antidumping and countervailing (AD/CVD) duties when dumping or subsidization continues after AD/CVD orders are imposed. The existence of continued dumping and subsidization indicates that fair market conditions have not been restored and that the industry that was found to be injured by dumped or subsidized imports is not getting the remedy intended by the statute. CDSOA funds are distributed to certain domestic parties for eligible expenditures on plant, equipment, and people, that is, for reinvesting in their businesses. The program is funded using duties collected on dumped and subsidized imports. If dumping or subsidization stops after an order is issued, there are no funds to distribute. CDSOA does not change how dumping margins or subsidy rates are calculated or how much duty must be paid. The program simply distributes moneys pursuant to generally applicable criteria when unfair trade practices do not cease. CDSOA enjoys wide bi-partisan support among Members of Congress and the public, and any legislation to repeal it would attract substantial controversy and strong opposition. Thus, CPoW believes that H.R. 1121 should not be included in the miscellaneous trade bill.

H.R. 2473 proposes to amend the antidumping law to delete the word "entirely" from subparagraphs (A) and (B) of section 735(c)(5) of the Tariff Act of 1930. While this may appear to be a small change, in reality, if enacted, H.R. 2473 could prevent Commerce from effectively enforcing the antidumping law. H.R. 2473 would make it virtually impossible for Commerce to calculate "all-others" dumping margins for non-investigated exporters in most cases. The "all-others" rate, which is applied to non-investigated exporters, is a weighted average of dumping margins calculated for individually investigated exporters. Margins based entirely on "facts available" data are excluded from the average under the current law. "Facts available" data is information Commerce uses as a substitute for actual company-specific data when a respondent company does not supply all the data necessary to calculate a dumping margin. Margins that are based only in part on facts available are used to calculate the "all-others" rate because many dumping margins calculated by Commerce are based on at least some "facts available" data.

H.R. 2473 would require Commerce to exclude all dumping margins based on any amount of "facts available" information from the "all-others" rate calculation. The

effect of this would be, in most cases, that Commerce would be left with no margins to calculate an "all-others" rate. This would result in serious administrative difficulties for the Department, which would consequently weaken the antidumping law. Hence, H.R. 2473 is likely to attract significant controversy and would likely not be administrable by the Commerce Department.

CPoW is also concerned that H.R. 1121 and H.R. 2473 appear to be efforts to implement adverse decisions of panels and the Appellate Body of the World Trade Organization ("WTO"). The miscellaneous trade bill is not an appropriate means by which to implement such decisions and enact changes in major U.S. trade laws. Furthermore, Congress and the Administration have been critical of overreaching by WTO panels and the Appellate Body and have expressed concern that the decisions on CDSOA and the "all-others" rate, in particular, created new obligations that the United States never agreed to and which are not found in the text of any WTO Agreement. In addition, Congress has previously directed the Administration to negotiate a resolution of these disputes at the WTO. The Administration is currently engaged in the Doha Round rules negotiations and should be allowed to complete that process, which ought to result in a correction of the problems created by panel and Appellate Body overreaching.

Because H.R. 1121 and H.R. 2473 are both controversial bills that are likely to draw strong opposition, and because their enactment would cut short the ongoing process of negotiations at the WTO, the Subcommittee should deem them inappropriate for inclusion in the miscellaneous trade package.

Again, CPoW appreciates the opportunity to submit these comments and would like to thank the Subcommittee for taking into account CPoW's views on the three bills discussed above.

Chad Henneman
Executive Director

Committee to Support U.S. Trade Laws
Washington, DC 20007
September 2, 2005

The Hon. E. Clay Shaw
Chairman, Trade Subcommittee
Committee on Ways and Means
1102 Longworth House Office Bldg.
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing on behalf of the Committee to Support U.S. Trade Laws (CSUSTL) to express the Committee's strong opposition to inclusion of H.R. 1121 and H.R. 2473 in the package of miscellaneous tariff bills. CSUSTL believes that miscellaneous tariff legislation, which has traditionally included duty suspension bills and minor technical corrections, is decidedly not the appropriate vehicle for addressing changes in our trade laws stemming from adverse WTO panel and Appellate Body decisions.

CSUSTL is an ad hoc coalition with a broad-based membership comprised of U.S. companies, trade associations, agricultural producers, labor organizations, and law firms. CSUSTL's membership represents a cross-section of the American economy and spans most major sectors including manufacturing, technology, agriculture, mining, lumber, consumer products, energy, and services. CSUSTL supports the maintenance of strong and effective trade laws and believes that the changes to U.S. trade laws that would occur as a result of the repeal of the CDSOA provision (H.R. 1121) and the amendment of the method for calculating "all other rates" in antidumping proceedings (H.R. 2473) would significantly weaken the effectiveness of the trade remedy laws for the companies and workers we represent.

Congress has already made clear its direction that the Administration pursue negotiations within the Doha Development Round to resolve these issues, including clear language in the Trade Promotion Authority of the Trade Act of 2002, as well as the Consolidated Appropriations Bills in 2004 and 2005. The Administration itself has commented that such overreaching WTO decisions have created obligations that the U.S. has never agreed to in any prior WTO negotiation. U.S. negotiators should pursue the negotiations option to clarify the WTO-compatibility of U.S. practice with respect to distribution of AD and CVD duties and with respect to the calculation of the "all others rate".

This approach has strong Congressional support on both sides of the aisle. Consequently, the inclusion of H.R. 1121 and H.R. 2473 in a package of tariff bills is extremely controversial. They simply have no place in a bill in which debate is limited and which has typically been passed under suspension of the rules.

David A. Hartquist
Executive Director

Copper & Brass Fabricators Council, Inc.
Washington, DC 20036
September 2, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

This statement is submitted on behalf of the Copper & Brass Fabricators Council, Inc. and its member companies to express the Council's opposition to the passage as a part of the Miscellaneous Tariff Bill of H.R. 1121 calling for the repeal of the Continued Dumping and Subsidy Offset Act (CDSOA) and H.R. 2473 which would alter the calculation of the "all others" rate in antidumping and countervailing duty cases in a way that would significantly reduce the amount of duties collected and distributed under CDSOA.

The Copper and Brass Fabricators Council is a trade association that represents the principal copper and brass mills in the United States. The 20 member companies together account for the fabrication of more than 80% of all copper and brass mill products produced in the United States, including sheet, strip, plate, foil, bar, rod, and both plumbing and commercial tube. These products are used in a wide variety of applications, chiefly in automotive, construction, and electrical/electronic industries.

Council member companies employ more than 14,000 workers in good paying jobs. Appendix A lists the members of the Council and the addresses and congressional district of each headquarters and manufacturing facility operated by Council members together with the number of workers at each location. Also attached is Appendix B which contains legal analysis supportive of the Council's position.

CDSOA enables Council members injured by unfair foreign trade to invest in their own companies and workers. Under CDSOA, import duties are distributed to U.S. manufacturers and workers who have supported successful trade cases against unfairly traded imports when dumping or unfair subsidization continues after an order is issued. All Council member companies have benefited from CDSOA distributions.

For those anxious to end CDSOA distributions the solution is simple and does not require legislation; simply stop illegal dumping and subsidies.

With respect to the CDSOA decision in which the WTO improperly overstepped its authority, in FY 2004 and FY 2005 both Houses of Congress directed the Bush Administration to negotiate a solution to the problem. Pursuant to those directives the Administration has stated to the WTO that it was "beyond question that countries have the sovereign right to distribute government revenues as they deem appropriate". That is all CDSOA does, it does not change legally authorized dumping and countervailing duties by a single penny.

There is also a mistaken belief that the WTO found the CDSOA to be an illegal subsidy. The claim that the CDSOA was an actionable subsidy causing adverse trade effects was, however, rejected by the WTO panel and not appealed.

Similarly, those who are opposed to CDSOA make the claim that it provides an incentive for domestic companies to file baseless antidumping or countervailing duty petitions. Such claims are simply unsupported by the record. The highest number of cases filed in recent years occurred in 1992, eight years prior to passage of the CDSOA. Case volumes since CDSOA became law are comparable in number to the volume filed before the law. The main influence on case volume actually appears to be the general level of economic activity in a given market with weak economic conditions giving rise to a higher level of case filings. In the last six months of 2004 only five cases were filed and that trend has continued in 2005. Nor is there any indication that court challenges to the ITC and DOC proceedings have increased thus disproving an alleged rise in so-called frivolous lawsuits.

The Trade Act of 2002 highlighted the ongoing pattern of overreaching by the WTO which is creating obligations never agreed to by the United States. The Congress and the Administration should continue working to ensure that the WTO dispute regarding CDSOA is resolved in ongoing negotiations in Geneva. The Council and its member companies strongly oppose repeal or modification of CDSOA in the U.S. Congress.

We appreciate your consideration of our comments in this matter which is of great importance to the Council and its members.

Very truly yours,

Joseph L. Mayer
President & General Counsel

Council Tool Company, Inc.,
Lake Waccamaw, North Carolina 28450
August 30, 2005

Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Ladies and Gentlemen:

I am writing on behalf of Council Tool Company Inc. and the 50 some families whose livelihood is derived from this operation. Located in Lake Waccamaw, North Carolina, we are a family owned and managed manufacturing firm which produces heavy forged hand tools. We have provided continuous employment in this area since 1886.

Please let the record show that all stockholders, managers and hard working employees of this company strongly oppose H.R. 1121 in the 2005 Miscellaneous Tariff Bill, which calls for the repeal of CDSOA as well as H.R. 2473 which alters calculation of the "all others" rate in certain cases. Both of these bills are detrimental to the interests of Council Tool Company and specifically it's employees as well as domestic manufacturing in general.

Council Tool is able to benefit from CDSOA because of an ITC ruling in 1991 declaring much of the product produced in mainland China to be dumped and the domestic industry injured. Subsequently we have suffered through and to date weathered unfair Chinese competition for at least fifteen (15) years. Many of our domestic competitors have not. They are out of business or sent the manufacturing jobs offshore.

We have only recently benefited from a distribution and I can unequivocally state that our operation is much more stable and becoming more efficient as a result of the benefits of same. With the exception of state and federal income taxes, virtually one hundred (100) percent of the income this company received under our one distribution has stayed in the operation. For example:

- We strengthened our balance sheet, allowing the company to survive unprecedented metal, energy and transportation markets over the last 18 months or so. Steel is the largest material component in much of our product line. Because of the time lag in passing along dramatically increased costs—steel, fuel oil, electricity, propane, motor freight—this created significant margin problems. CDSOA funds allowed us to weather the aforementioned market conditions without adverse debt costs. We were able to acquire several new pieces of induction heating equipment which we simply would not have considered without the monetary distribution. With induction heating we are able to heat steel to high temperatures electrically very quickly as opposed to fuel fired furnaces. This increases the pace of the operation, reduces the actual cost of heating the steel and is certainly a more comfortable atmosphere for the operators of the equipment. This type of equipment, while more efficient and productive—is not inexpensive. Acquisition costs of new equipment of this sort are several hundred thousand dollars each plus installation and ramp up costs. With CDSOA funds we were able to purchase several new units—not used—and we purchased sizes we needed, not what we could get by with. Faced with extremely thin to nonexistent margins **(due to imported products of Chinese origin)** we would not have considered this without the CDSOA funds.
- Additionally because of the distribution, we were able to acquire—without debt—several pieces of ancillary equipment used in the production of our tooling. Precision surface grinders and cadcam software. These are new, current

technology, and capable of delivering increased precision and repeatability to our tooling efforts. The operation is stronger and more stable as a result.

We are confident there are no more than three operations left in the U.S. which produce similar products. All are involved with CDSOA and although I certainly do not pretend to speak for them, I can easily imagine that there would be less than three remaining without CDSOA. In addition to traditional channels of distribution, we manufacture items under contract for the U.S. Forest Service, General Services Administration as well as various military specialty requirements. While these products may not be considered "high tech", they are necessary and vital and it would seem important that some degree of this kind of manufacturing technology remain in this country. For information purposes, several months back, we responded to an internet solicitation from a comparable Chinese manufacturer. We asked for pricing for several completed products. The f.o.b. China port pricing was generally less than or within a few cents of our domestic steel component cost. Without CDSOA, this could be considered impossible competition.

It is my hope and the hope of all of our taxpaying employees and that Congress will actively support domestic manufacturing. The conditions under which domestic employers must attempt to remain competitive with foreign, particularly Asian firms and most particularly mainland China make it increasingly difficult to compete. Continued environmental and safety regulation "creep" along with sharply increased costs for employer provided group health insurance and employer provided workers compensation insurance are a few issues which come to mind. I can only provide an opinion into my small industry. Repeal of or weakening of CDSOA will only have negative consequences on those U.S. citizens currently employed here producing heavy forged hand tools. In our case, we have a large portion of our workforce with seniority of fifteen (15) to thirty (30) years. These people work **HARD.** We hope that Congress will look out for their interests and for the interests of other U.S. manufacturers who provide basic manufacturing employment in this country.

Free trade is good public policy. Unless the playing field is relatively level, it is not fair trade. It seems to us that what CDSOA is doing is allowing injured U.S. manufacturers to continue to exist, strengthen their operations and continue to provide employment with benefits to American citizens.

North Carolina has been a particularly hard hit state in recent years due to the significant migration of manufacturing jobs to other countries. Our county (Columbus) has been designated economically depressed. As we have for the last one hundred and nineteen (119) years, we want to continue to manufacture products of superior quality and value. In this way we can continue to provide jobs and stability in our community.

Thanking you in advance for allowing us to contribute to this process.

Sincerely,

John M. Council III
President

Floral Trade Council
Ovid, Michigan 48866
September 1, 2005

The Honorable E. Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

On July 25, 2005, the Subcommittee issued Advisory No. TR–3. which requested comments for the record regarding proposed bills concerning "technical corrections to U.S. trade laws and miscellaneous duty suspension proposals." A list of these miscellaneous trade bills is provided in the Advisory. This letter is the Floral Trade Council's response to the Subcommittee's request.

The Floral Trade Council represents U.S. fresh cut flower growers.

In particular, the FTC is concerned about, and opposes, two bills; H.R. 1121, and H.R. 2473. H.R. 1121 is "A bill to repeal section 754 of the Tariff Act of 1930" and H.R. 2473 is "A bill to amend the Tariff Act of 1930 relating to determining the all-others rate in antidumping cases." These bills are controversial and should be deleted from the final miscellaneous trade bill.

Strong Trade Remedy Laws Are Important To Fair Trade:

As the organization that represents cut flower producers in the U.S., the FTC is an unwavering supporter of strong trade law remedies. Effective and useable trade remedy laws are important tools to maintaining a level playing field for our industry in particular and more broadly for U.S. agricultural producers.

The FTC believes that any attempt to weaken trade remedy laws in this bill or elsewhere, should be rejected. Absent strong trade remedy laws, it will be harder for U.S. companies and workers to compete fairly with subsidized and dumped imports. And, without effective and useable trade remedy laws on the books; market opening trade policies will lose the support of the American people.

H.R. 1121 and H.R. 2473 will undermine trade remedy laws in the ways detailed below. These bills are the type of controversial measures should not be included in a miscellaneous trade bill package.

Concerns about H.R. 1121:

- This bill proposes to repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"). CDSOA has strong bi-partisan support from Members of Congress and the public. Any attempt to repeal CDSOA would attract intense controversy and strong opposition.
- Under CDSOA, duties that are collected as a result of continued dumping or subsidization are distributed by the U.S. government to eligible domestic industries found to have been injured by dumped or subsidized imports.
- CDSOA has no effect on how dumping and subsidy rates are calculated or on how much in duties importers must pay. All it does is simply distribute collected monies when unfair trade practices by our foreign competitors do not cease.
- CDSOA distributes money only when dumping and subsidization continues after an order. If dumping and subsidization cease, no funds are collected or distributed.

Concerns about H.R. 2473:

- This bill proposes to weaken the antidumping law by deleting the word "entirely" from subparagraphs (A) and (B) of section 735(c)(5) of the Tariff Act of 1930. These provisions concern the calculation of the "all others rate."
- This proposal is not simply a technical change. In fact, it would make a significant and harmful change to the antidumping law by making it exceeding difficult in a large number of cases for the Department of Commerce to calculate an "all-others" dumping rate for non-investigated exporters.
- The "all-others" rate is the rate that applies to all exporters that were not investigated. It is calculated as the weighted average of the dumping margins calculated for those individual exporters that were investigated.
- Currently, Commerce does not include in the weighted average any margins based entirely on "facts available" data. Commerce does include in the weighted average margins based partially on "facts available." Margins based on partial facts available are not uncommon.
- "Facts available" data (data substituted for actual company-specific data) is applied by Commerce when an exporter fails to submit data required to calculate a dumping margin.
- H.R. 2473 proposes to prohibit Commerce from calculating the "all others" rate from any margins based on facts available, partial or entire. This would mean that, in many case, there would be no useable margins from which to calculate an "all others" rate.
- In substance, H.R. 2473 would weaken the antidumping law. H.R. 2473 would cause severe problems for Commerce in carrying out its statutory responsibilities to administer the antidumping law.

A Miscellaneous Trade Bill is Not the Vehicle to Implement WTO Panel or Appellate Body Decisions

Another reason to delete H.R. 1121 and H.R. 2473 from a miscellaneous trade bill package is that they are legislation designed to change U.S. law in response to controversial decisions by WTO dispute panels and Appellate Body. A non-controversial miscellaneous trade bill is not the appropriate vehicle to make such legislative changes to trade remedy laws.

These bills clearly respond to specific cases where WTO panels and its Appellate Body have engaged in overreaching their authority. On both the CDSOA and the "all-others" rate issues, Congress and the Administration have expressed displeasure with this WTO overreach. These and other WTO decisions have tried to

impose on the U.S. obligations that were not negotiated and which are not apparent from the text of the WTO Agreements.

In addition, Congress has consistently told the Administration to work to seek a resolution of these controversial decisions through negotiations at the WTO. The Administration is currently doing just that in the Doha Round negotiations. Both H.R. 1121 and H.R. 2473, if legislated, would interfere in these efforts.

In conclusion, H.R. 1121 and H.R. 2473 need to be expeditiously removed from the miscellaneous trade bill package. There is no reason to jeopardize the passage of the hundreds of other helpful and non-controversial bills contained in the package.

William R. Carlson
Executive Director

Gerdau Ameristeel
Tampa, Florida 33631
September 2, 2005

Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Dear Sir or Madam:

Gerdau Ameristeel is the steel industry's second largest minimill manufacturer with 73 operating facilities strategically located throughout North America. Our 7,200 professionals are dedicated to the preservation of a viable and competitive steel industry that is vital to the economic health of our society.

On an annual basis, our steel operations recycle over eight million tons of ferrous scrap to produce quality steel products that reinforce the skylines and infrastructure of our communities and enrich the security of our lifestyles. The labor productivity of our operations and the advanced technology of our assets will rank among the leaders in the intensely competitive global steel industry.

Gerdau Ameristeel has assumed a primary role in the consolidation and revitalization of the steel industry in North America. In the pursuit of our goals and strategic vision, we are not dependent on protectionist trade measures nor do we seek anything more than a level and fair global market environment. Unfortunately, the history of global steel trade reflects a legacy of foreign government intervention, subsidization and financial corporate welfare support for locally protected steel assets.

The 7,200 employees of Gerdau Ameristeel wish to express their opposition to H.R. 1121 in the Miscellaneous Tariff Bill and any related legislative actions directed at the repeal of the Continued Dumping and Subsidy Offset Act of 2000 (CDSOA). We also wish to voice our displeasure and opposition to the proposals of H.R. 2473 which alters the calculation of the "all others" rate in anti-dumping and countervailing duty trade cases. Our opposition to the weakening of these unfair trade deterrents is based on a desire to sustain a reasonable balance in the fairness of international steel trade and to provide adequate time for completion of the restructuring of the North American steel industry.

Over the past few years, our company has committed approximately one billion dollars towards the consolidation and revitalization of the domestic steel industry. Through this industry consolidation phase, Gerdau Ameristeel has increased its steel manufacturing capacity by approximately 400% and embarked on a long term program to resurrect the competitive stature of the acquired facilities.

The success of this high risk strategy will require extensive capital investments in the modernization of the steel manufacturing facilities and the assimilation and rebuilding of the steel industry talent pool. We perceive that the completion of this industry revitalization will continue for several more years and the deterrent advantages of the existing trade laws will be of vital importance to this process. The fulfillment of this ambitious undertaking is also consistent with the directives of President Bush's policy mandates that were articulated during his first term of office.

Gerdau Ameristeel is a major architect and driving force in the realization of the administrations steel policy and we urge the Congress to provide the moral guidance and legislative support for our completion of this task. The strength of our economy and the national security of our sovereign independence mandate that we retain a viable manufacturing sector and a healthy steel industry.

As a constructive business partner in the realization of our steel industry vision, we strongly seek your support for the retention of effective trade laws and rejection of H.R. 1121 and H.R. 2473 in the Miscellaneous Tariff Bill.

Sincerely,

Phillip E. Casey
Chairman and CEO

Independent Steelworkers Union
Weirton, West Virginia 26062
September 2, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

The Independent Steelworkers Union ("ISU") represents over 2,000 steelworkers at the Weirton facility of Mittal Steel USA, in Weirton, West Virginia. ISU is grateful for the chance to submit comments on bills being considered for inclusion in the miscellaneous trade package. In particular, ISU is interested in H.R. 1068, "A bill to maintain and expand the steel import licensing and monitoring program," H.R. 1121, "A bill to repeal section 754 of the Tariff Act of 1930," and H.R. 2473, "A bill to amend the Tariff Act of 1930 relating to determining the all-others rate in antidumping cases."

ISU supports the inclusion of H.R. 1068 in the miscellaneous trade bill and urges Congress to pass it into law. H.R. 1068 is an important bill and one that should not attract significant controversy. H.R. 1068 simply expands and makes permanent the steel import monitoring program that was established as part of the president's steel safeguard action in 2002. This successful program has enabled U.S. producers and policymakers to stay current on shifts in trade flows in the steel sector and, when necessary, to take appropriate action. Making the program permanent will help prevent future import surges like those in the late 1990s, which resulted in thousands of lost steelworker jobs. Expanding the program as proposed in H.R. 1068 would provide for complete coverage of all steel mill products, allowing for a more comprehensive analysis of steel imports. H.R. 1068, which modifies and expands a successful, existing program, is representative of the sort of bill that logically ought to be included in the miscellaneous trade package. ISU supports its inclusion and enactment.

H.R. 1121 and H.R. 2473, however, are bills that should not be included in the miscellaneous trade package. These bills, if passed, would significantly weaken U.S. trade remedy laws and are thus likely to attract a great deal of opposition. The U.S. needs strong, effective trade remedy laws to ensure a level playing field for U.S. manufacturers and workers. Given a fair market, the U.S. steel industry can compete with any foreign rivals. However, ISU is all too familiar with the effect of surges of steel imports at dumped and subsidized prices. That is why the trade laws must remain in place, to prevent and offset unfair trade and to provide a remedy for injury caused by it. The miscellaneous trade bill should not be used to chip away at these critical laws. That is why H.R. 1121 and H.R. 2473 must be excluded from the package.

H.R. 1121 would repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"). CDSOA is a program that distributes funds to certain domestic parties that have been injured by dumped and subsidized imports for eligible expenditures on plant, equipment, and people. The source of the funds for CDSOA is antidumping and countervailing duties, which are collected when dumping or subsidization continues after AD/CVD orders are imposed. Where dumping or subsidization stops after an order is issued, there are no funds to distribute. That means the AD/CVD orders are working as intended. CDSOA does not change the methodology used by Commerce to calculate dumping margins or subsidy rates and it has no effect on the amount of duty that must be paid. The program simply distributes funds to injured parties, pursuant to generally applicable criteria, when unfair trade practices do not cease. There is broad bi-partisan support among Members of Congress and the public for CDSOA, and any legislation to repeal the law would attract substan-

tial controversy and strong opposition. In ISU's view, H.R. 1121 is not a bill that should be included in the miscellaneous trade package.

H.R. 2473 proposes to amend the antidumping law to delete the word "entirely" from subparagraphs (A) and (B) of section 735(c)(5) of the Tariff Act of 1930. This is hardly a technical amendment, however. If enacted, H.R. 2473 would severely limit Commerce's ability to effectively enforce the antidumping law. In effect, H.R. 2473 would make it nearly impossible in most cases for Commerce to calculate the dumping margin for non-investigated exporters, known as the "all-others" rate. The "all-others" rate is a weighted average of dumping margins calculated for individually investigated exporters. Under current law, dumping margins that are based entirely on "facts available" data are not included in the average. "Facts available" refers to data used by Commerce to calculate a dumping margin when a respondent company does not supply all the actual company-specific that is needed. Margins that are based only partially on facts available are used in the calculation of the "all-others" rate. In practice, this is necessary because many of the dumping margins Commerce calculates are based on at least some "facts available" data.

H.R. 2473 would prohibit Commerce from using any dumping margins in the "all-others" rate calculation that are based on any amount of "facts available" data. In most cases, this would effectively leave Commerce with no margins to use in calculating an "all-others" rate. Consequently, H.R. 2473 would create serious administrative difficulties for the Department, necessarily weakening the antidumping law. For these reasons, H.R. 2473 will almost certainly attract significant controversy and would, for practical purposes, not be administrable by Commerce.

ISU also finds it disturbing that the apparent purpose of H.R. 1121 and H.R. 2473 is to implement World Trade Organization ("WTO") panel and Appellate Body decisions that have gone against the U.S. That purpose is inconsistent with the purpose of the miscellaneous trade bill, which has historically been non-controversial legislation. Furthermore, Congress and the Administration have repeatedly criticized the overreaching of WTO panels and the Appellate Body, in these disputes in particular, and have consistently maintained that, in the decisions on CDSOA and the "all-others" rate, new obligations were created that the U.S. never agreed to. These new rules are nowhere to be found in the text of any WTO Agreement. Congress has also previously called for the Administration to resolve these disputes through negotiations at the WTO. Those negotiations are in progress as part of the Doha Round and the Administration should be allowed to work within that process to see whether, through negotiation, the problems created by panel and Appellate Body overreaching can be corrected. Consequently, it would not be appropriate to include H.R. 1121 and H.R. 2473 in the miscellaneous trade package.

ISU appreciates the Subcommittee accepting these comments and taking them into consideration during its deliberations.

Respectfully submitted,

Mark Glyptis
President

Statement of Ryozo Kato, Embassy of Japan

The Government of Japan appreciates the opportunity to present its view to the Trade Subcommittee of the Committee on Ways and Means on Bill H.R. 2473 which amends *Section 735(c)(5) of the Tariff Act of 1930 of the United States* in relation to the determination of the "all-others rate" in anti-dumping investigations by the United States.

On August 23, 2001, the Dispute Settlement Body of the World Trade Organization (WTO) found that *Section 735(c)(5)* was inconsistent with WTO rules[1] The United States was obliged to comply with the recommendations and rulings of the WTO by November, 2002[2] In spite of Japan's reiterated request to implement the recommendations and rulings, the deadline, which was extended three times, expired on July 31 due to the failure of the United States to comply. While the Understanding[3] between the Government of the United States and of Japan reached in July of this year allows Japan to maintain the right to take retaliatory measures against the United States, Japan intends to continue bilateral discussions to urge

[1] See the Minutes of the Dispute Settlement Body, on United States—Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan (pages 17–22, WT/DSB/M/108)

[2] Award of the Arbitrator (WT/DS184/13)

[3] Understanding between Japan and the United States of America (WT/DS184/19)

the United States to render the provision at issue consistent with the multilateral trade rules, in the trust that the United States will certainly take necessary actions to comply with international rules.

The dispute settlement system is a fundamental pillar of the WTO in providing security and predictability to the multilateral trading system. Its credibility depends on the strict observance by its Members. The failure of the United States, a leading Member of the WTO, to fully comply with its WTO obligations is compromising the credibility of the United States. This in turn undermines the credibility of the WTO, which embodies a regime of a rule-based trading system, and would harm the interests of all WTO Members, including the United States.

In this light, the Government of Japan strongly supports Bill H.R. 2473 introduced by Chairman Clay Shaw.

Kansas Cattlemen's Association
Manhattan, Kansas 66502
September 2, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

The Kansas Cattlemen's Association is submitting these comments in response to the Subcommittee's request for written comments for the record from all parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. The mission of the KCA is to restore profits, self-esteem, freedom, fair trade, trust and community pride back to the farms, ranches and rural communities across Kansas and the nation. Established in 1998, the Kansas Cattlemen's Association represents independent, grass-root cattle producers and feedlot operators on marketing and trade issues. Prior to 1998, independent producers felt as though they were being both underrepresented and misrepresented by current organizations. Thus, the Kansas Cattlemen's Association works hard to sustain the independent agricultural lifestyle for farmers and ranchers. With all of the consolidation currently taking place amongst the agricultural industries, the Kansas Cattlemen's Association focuses on not only maintaining, but enhancing competition within the marketplace for the USA live cattle industry. In its nearly seven years of existence, the Kansas Cattlemen's Association has experienced exponential growth, with current membership numbers approaching 2,100.

The Kansas Cattlemen's Associationwelcomes the opportunity to comment on the bills being considered for inclusion in the miscellaneous package, in particular H.R. 1121, "A bill to repeal section 754 of the Tariff Act of 1930," and H.R. 2473, "A bill to amend the Tariff Act of 1930 relating to determining the all-others rate in antidumping cases."

H.R. 1121 and H.R. 2473 are not well suited for inclusion in the miscellaneous trade package. These bills are likely to attract significant controversy and would constitute major changes to U.S. trade remedy laws. The Kansas Cattlemen's Association supports maintaining strong and effective trade laws. Such laws are necessary to ensure a level playing field for U.S. ranchers, cattlemen, and farmers, as well as U.S. manufacturers and workers. In a fair market, U.S. producers are second to none. When foreign competitors flood the U.S. market with dumped and subsidized goods, however, the trade laws must be in place to provide a remedy for injury caused by unfairly traded imports. The Kansas Cattlemen's Association believes it would be inappropriate to use the miscellaneous trade bill to weaken those laws, but that will be the effect if H.R. 1121 and H.R. 2473 are included in the package.

H.R. 1121 proposes to repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"). CDSOA is a program that distributes antidumping and countervailing (AD/CVD) duties when dumping or subsidization continues after AD/CVD orders are imposed. The existence of continued dumping and subsidization indicates that fair market conditions have not been restored and that the industry that was found to be injured by dumped or subsidized imports is not getting the remedy intended by the statute. CDSOA funds are distributed to certain domestic parties for eligible expenditures on plant, equipment, and people, that is, for reinvesting in

their businesses. The program is funded using duties collected on dumped and subsidized imports. If dumping or subsidization stops after an order is issued, there are no funds to distribute. CDSOA does not change how dumping margins or subsidy rates are calculated or how much duty must be paid. The program simply distributes moneys pursuant to generally applicable criteria when unfair trade practices do not cease. CDSOA enjoys wide bi-partisan support among Members of Congress and the public, and any legislation to repeal it would attract substantial controversy and strong opposition. Thus, the Kansas Cattlemen's Associationbelieves that H.R. 1121 should not be included in the miscellaneous trade bill.

H.R. 2473 proposes to amend the antidumping law to delete the word "entirely" from subparagraphs (A) and (B) of section 735(c)(5) of the Tariff Act of 1930. While this may appear to be a small change, in reality, if enacted, H.R. 2473 could prevent Commerce from effectively enforcing the antidumping law. H.R. 2473 would make it virtually impossible for Commerce to calculate "all-others" dumping margins for non-investigated exporters in most cases. The "all-others" rate, which is applied to non-investigated exporters, is a weighted average of dumping margins calculated for individually investigated exporters. Margins based entirely on "facts available" data are excluded from the average under the current law. "Facts available" data is information Commerce uses as a substitute for actual company-specific data when a respondent company does not supply all the data necessary to calculate a dumping margin. Margins that are based only in part on facts available are used to calculate the "all-others" rate because many dumping margins calculated by Commerce are based on at least some "facts available" data.

H.R. 2473 would require Commerce to exclude all dumping margins based on any amount of "facts available" information from the "all-others" rate calculation. The effect of this would be, in most cases, that Commerce would be left with no margins to calculate an "all-others" rate. This would result in serious administrative difficulties for the Department, which would consequently weaken the antidumping law. Hence, H.R. 2473 is likely to attract significant controversy and would likely not be administrable by the Commerce Department.

The Kansas Cattlemen's Association is also concerned that H.R. 1121 and H.R. 2473 appear to be efforts to implement adverse decisions of panels and the Appellate Body of the World Trade Organization ("WTO"). The miscellaneous trade bill is not an appropriate means by which to implement such decisions and enact changes in major U.S. trade laws. Furthermore, Congress and the Administration have been critical of overreaching by WTO panels and the Appellate Body and have expressed concern that the decisions on CDSOA and the "all-others" rate, in particular, created new obligations that the United States never agreed to and which are not found in the text of any WTO Agreement. In addition, Congress has previously directed the Administration to negotiate a resolution of these disputes at the WTO. The Administration is currently engaged in the Doha Round rules negotiations and should be allowed to complete that process, which ought to result in a correction of the problems created by panel and Appellate Body overreaching.

Because H.R. 1121 and H.R. 2473 are both controversial bills that are likely to draw strong opposition, and because their enactment would cut short the ongoing process of negotiations at the WTO, the Subcommittee should deem them inappropriate for inclusion in the miscellaneous trade package.

Again, the Kansas Cattlemen's Association appreciates the opportunity to submit these comments and would like to thank the Subcommittee for taking into account the Kansas Cattlemen's Association views on these two bills discussed above.

Doran Junk
Executive Director

Libbey Inc.
Toledo, Ohio 43604
August 31, 2005

The Honorable E. Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

On July 25, 2005, the Subcommittee issued Advisory No. TR–3. The Advisory requested written comments for the record from interested parties regarding proposed bills concerning "technical corrections to U.S. trade laws and miscellaneous duty suspension proposals." The Advisory included a list of the particular miscellaneous trade bills about which comments were requested. This letter is Libbey Inc.'s (Libbey) response to the Subcommittee's request.

Libbey is a leading supplier of tableware products in the U.S. and Canada. Based in Toledo, Ohio, Libbey operates glass tableware manufacturing plants in the United States in Louisiana and Ohio, in Portugal and in the Netherlands. In addition, through its Syracuse China, World Tableware, and Traex subsidiaries, it is a leading provider of ceramic dinnerware, metal flatware, and plastic products to the foodservice industry in the United States. Libbey exports glassware to more than 90 countries around the world and also provides technical assistance to a number of foreign glass tableware manufacturers.

H.R. 1121 and H.R. 2473 Should Not Be Included In a Miscellaneous Trade Bill Package

In particular, Libbey is concerned about, and opposes, two bills.

H.R. 1121—"A bill to repeal section 754 of the Tariff Act of 1930"
H.R. 2473—"A bill to amend the Tariff Act of 1930 relating to determining the all-others rate in antidumping cases"

Strong Trade Remedy Laws Are Important To Maintaining Fair Trade

As a major U.S. manufacturer of glass tableware and ceramic dinnerware, both import-sensitive products, Libbey is a strong and long-standing supporter of strong trade law remedies. Effective and useable trade remedy laws are necessary, indeed, crucial to maintaining a level playing field for U.S. manufacturers and their workers. Libbey thus believes that any attempt to weaken trade remedy laws should be rejected because it will make it harder for U.S. companies and workers to compete fairly with subsidized and dumped imports.

Moreover, without effective trade remedy laws in place, trade liberalization policies will lose public support.

Because H.R. 1121 and H.R. 2473 Would Weaken Crucial Trade Remedy Laws, They Will Attract Controversy and Strong Opposition

A miscellaneous trade bill is not intended to be a vehicle for controversial legislation. Bills that weaken trade remedy laws will cause controversy. Because both H.R. 1121 and H.R. 2473 will weaken trade remedy laws, they will cause controversy. Hence, they should not be included in a miscellaneous trade bill package.

H.R. 1121:

- This bill proposes to repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA").
- CDSOA has strong bi-partisan support from Members of Congress and the public. Any attempt to repeal CDSOA would attract intense controversy and strong opposition.
- Under CDSOA, duties that are collected as a result of continued dumping or subsidization are distributed by the U.S. government to certain eligible domestic parties in industries found to have been injured by dumped or subsidized imports.
- CDSOA has no effect on how dumping and subsidy rates are calculated or on how much in duties importers must pay. All it does is simply distribute money pursuant to generally applicable criteria when unfair trade practices do not cease.
- CDSOA distributes money only to the extent dumping and subsidization continues after an order. If dumping and subsidization cease, no funds are collected or distributed.

H.R. 2473:

- This bill proposes to weaken the antidumping law by deleting the word "entirely" from subparagraphs (A) and (B) of section 735(c)(5) of the Tariff Act of 1930. These provisions concern the calculation of the "all others rate."
- This proposal is not simply a technical change. In fact, it would effect a substantial and harmful change to the antidumping law by making in virtually impossible in a large number of cases for the Department of Commerce to calculate an "all-others" dumping rate for non-investigated exporters.
- The "all-others" rate is the rate that applies to all exporters that were not investigated. It is calculated as the weighted average of the dumping margins calculated for those individual exporters that were investigated.
- Currently, Commerce does not include in the weighted average any margins based entirely on "facts available" data. Commerce does include in the weighted average margins based partially on "facts available." Margins based on partial facts available are not uncommon.
- "Facts available" data (data substituted for actual company-specific data) is applied by Commerce when an exporter fails to submit data required to calculate a dumping margin.
- H.R. 2473 proposes to prohibit Commerce from calculating the "all others" rate from any margins based on facts available, partial or entire. This would mean that, in many cases, there would be no useable margins from which to calculate an "all others" rate.
- In substance, H.R. 2473 would weaken the antidumping law. Administratively, H.R. 2473 would cause severe problems for Commerce in carrying out its statutory responsibilities to administer the antidumping law.
- In sum, because H.R. 2473 would attract controversy and engender strong opposition from domestic party users of the antidumping law, it should not be included in a purportedly non-controversial miscellaneous trade bill package.

Miscellaneous Trade Bills Are Not Appropriate Vehicles to Implement WTO Panel or Appellate Body Decisions

A further reason not to include H.R. 1121 and H.R. 2473 in a miscellaneous trade bill package is that they are apparent attempts to implement legislatively controversial decisions by WTO dispute panels and Appellate Body. "Non-controversial" miscellaneous trade bills are not an appropriate vehicle to effect such legislative changes to trade remedy laws.

Moreover, on both the CDSOA and the "all-others" rate issues, Congress and the Administration have criticized the WTO panels and Appellate Body for overreaching their authority. They have said that these (and other) WTO decisions have tried to impose on the U.S. obligations that were not negotiated and which are apparent from the text of the WTO Agreements. In addition, Congress has repeatedly told the Administration to seek a resolution of these controversial decisions through negotiations at the WTO, which the Administration is currently doing in the context of the Doha Round. Both H.R. 1121 and H.R. 2473, if legislated, would interfere in these efforts.

Conclusion

For all of the foregoing reasons, both H.R. 1121 and H.R. 2473 would "attract controversy," weaken the trade remedy laws, and give rise to strong opposition. Neither H.R. 1121 nor H.R. 2473 should be included in a miscellaneous trade bill package.

Susan Allene Kovach
Vice President, General Counsel and Secretary

Montana Cattlemen's Association
Billings, Montana 59107
September 2, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

Montana Cattlemen's Association (MCA) is a state wide organization representing over 1,300 cattle producers and their families. Our producer members are directly impacted by the effects of foreign imports displacing domestic production and having direct impact on our domestic prices.

Montana Cattlemen's Association welcomes the opportunity to comment on the bills being considered for inclusion in the miscellaneous package, in particular H.R. 1802, "A bill to amend the Tariff Act of 1930 with respect to the marking of imported live bovine animals," H.R. 1121, "A bill to repeal section 754 of the Tariff Act of 1930," and H.R. 2473, "A bill to amend the Tariff Act of 1930 relating to determining the all-others rate in antidumping cases."

H.R. 1802 is an important bill and one that should not attract significant controversy. MCA believes it makes sense to include this bill in the miscellaneous trade package. Federal law already requires that, in general, imports must be marked with their country of origin. For many years, however, the Treasury Department has exempted livestock by including it on its "J-list" (19 C.F.R. § 134.33) of imports that need not be marked or branded pursuant to the requirements of the Trade Act of 1930. Livestock should not be exempted from those requirements. It is not impractical to require imported livestock to be indelibly marked, and it is important to require marking, not only for tracking and identification, but to demonstrate the commitment of the United States to compliance with established U.S. rules on inspection and testing.

The miscellaneous trade bill has been used in the past to amend the Tariff Act of 1930 to specify particular imports for which country-of-origin marking is expressly required. For example, the marking of certain silk products was specifically required by the Miscellaneous Trade and Technical Corrections Act of 1999, and the marking of certain coffee and tea products as well as the marking of spices was explicitly required by the Miscellaneous Trade and Technical Corrections Act of 1996. Like these prior amendments, H.R. 1802 logically should be included in the miscellaneous trade package, and MCA urges its inclusion and enactment.

H.R. 1121 and H.R. 2473, however, are not well suited for inclusion in the miscellaneous trade package. These bills are likely to attract significant controversy and would constitute major changes to U.S. trade remedy laws. MCA supports maintaining strong and effective trade laws. Such laws are necessary to ensure a level playing field for U.S. ranchers, cattlemen, and farmers, as well as U.S. manufacturers and workers. In a fair market, U.S. producers are second to none. When foreign competitors flood the U.S. market with dumped and subsidized goods, however, the trade laws must be in place to provide a remedy for injury caused by unfairly traded imports. MCA believes it would be inappropriate to use the miscellaneous trade bill to weaken those laws, but that will be the effect if H.R. 1121 and H.R. 2473 are included in the package.

H.R. 1121 proposes to repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"). CDSOA is a program that distributes antidumping and countervailing (AD/CVD) duties when dumping or subsidization continues after AD/CVD orders are imposed. The existence of continued dumping and subsidization indicates that fair market conditions have not been restored and that the industry that was found to be injured by dumped or subsidized imports is not getting the remedy intended by the statute. CDSOA funds are distributed to certain domestic parties for eligible expenditures on plant, equipment, and people, that is, for reinvesting in their businesses. The program is funded using duties collected on dumped and subsidized imports. If dumping or subsidization stops after an order is issued, there are no funds to distribute. CDSOA does not change how dumping margins or subsidy rates are calculated or how much duty must be paid. The program simply distributes moneys pursuant to generally applicable criteria when unfair trade practices do not cease. CDSOA enjoys wide bi-partisan support among Members of Congress and the public, and any legislation to repeal it would attract substantial controversy

and strong opposition. Thus, MCA believes that H.R. 1121 should not be included in the miscellaneous trade bill.

H.R. 2473 proposes to amend the antidumping law to delete the word "entirely" from subparagraphs (A) and (B) of section 735(c)(5) of the Tariff Act of 1930. While this may appear to be a small change, in reality, if enacted, H.R. 2473 could prevent Commerce from effectively enforcing the antidumping law. H.R. 2473 would make it virtually impossible for Commerce to calculate "all-others" dumping margins for non-investigated exporters in most cases. The "all-others" rate, which is applied to non-investigated exporters, is a weighted average of dumping margins calculated for individually investigated exporters. Margins based entirely on "facts available" data are excluded from the average under the current law. "Facts available" data is information Commerce uses as a substitute for actual company-specific data when a respondent company does not supply all the data necessary to calculate a dumping margin. Margins that are based only in part on facts available are used to calculate the "all-others" rate because many dumping margins calculated by Commerce are based on at least some "facts available" data.

H.R. 2473 would require Commerce to exclude all dumping margins based on any amount of "facts available" information from the "all-others" rate calculation. The effect of this would be, in most cases, that Commerce would be left with no margins to calculate an "all-others" rate. This would result in serious administrative difficulties for the Department, which would consequently weaken the antidumping law. Hence, H.R. 2473 is likely to attract significant controversy and would likely not be administrable by the Commerce Department.

MCA is also concerned that H.R. 1121 and H.R. 2473 appear to be efforts to implement adverse decisions of panels and the Appellate Body of the World Trade Organization ("WTO"). The miscellaneous trade bill is not an appropriate means by which to implement such decisions and enact changes in major U.S. trade laws. Furthermore, Congress and the Administration have been critical of overreaching by WTO panels and the Appellate Body and have expressed concern that the decisions on CDSOA and the "all-others" rate, in particular, created new obligations that the United States never agreed to and which are not found in the text of any WTO Agreement. In addition, Congress has previously directed the Administration to negotiate a resolution of these disputes at the WTO. The Administration is currently engaged in the Doha Round rules negotiations and should be allowed to complete that process, which ought to result in a correction of the problems created by panel and Appellate Body overreaching.

Because H.R. 1121 and H.R. 2473 are both controversial bills that are likely to draw strong opposition, and because their enactment would cut short the ongoing process of negotiations at the WTO, the Subcommittee should deem them inappropriate for inclusion in the miscellaneous trade package.

Again, MCA appreciates the opportunity to submit these comments and would like to thank the Subcommittee for taking into account MCA's views on the three bills discussed above.

Brett DeBruycker
President

Pacamor Kubar Bearings
Troy, New York 12180
September 1, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

This letter is in response to a July 25, 2005 notice from the Subcommittee, No. TR–3, which requested comments concerning technical corrections to U.S. Trade Laws and miscellaneous duty suspension proposals. Pacamor Kubar Bearings ("PKB") is an American owned and operated precision miniature and instrument ball bearing manufacturer. We have been manufacturing quality bearings for over 40 years, serving industries such as aerospace, aircraft instrument, medical and dental instruments, computers, flow meters, and many others. PKB welcomes the

opportunity to provide the Subcommittee with comments on two bills under consideration, in particular H.R. 1121, "A bill to repeal section 754 of the Tariff Act of 1930," and H.R. 2473, "A bill to amend the Tariff Act of 1930 relating to determining the all-others rate in antidumping cases." We believe the inclusion of these bills in the miscellaneous trade package would weaken U.S. trade laws and attract significant controversy.

PKB's operations have been the target of unfair trade for several decades. We have, therefore, been committed to maintaining the strength of U.S. trade remedies so as to permit fair competition with our foreign counterparts. Unfairly dumped and subsidized imports threaten not only PKB's operations, but the strength of the domestic industry as a whole. Indeed, many U.S. bearings producers have been forced out of business as a result of unfairly traded goods. It is imperative that our trade laws are not weakened by the inclusion of bills such as H.R. 1121 and H.R. 2473 in the miscellaneous trade package.

In particular, H.R. 1121 would repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"). CDSOA permits the distribution of money to domestic parties for eligible expenditures on plant, equipment, and employee-related expenses such as health benefits when an industry has been found injured by dumped or subsidized imports. The monies distributed are derived from duties owed when dumping and/or subsidization continues. If the unfair trade ceases, there are no duties to be collected and therefore, no funds to be distributed. There is widespread bi-partisan support for CDSOA by both members of Congress and strong public support for this law. Repeal of CDSOA would not only foster strong opposition and attract significant controversy, but would also serve to undermine the effectiveness of import relief to domestic industries.

Similarly, H.R. 2473 should not be included as this amendment would prevent the Department of Commerce from calculating "all-others" dumping margins for non-investigated exporters in a large subset of cases, rendering this provision of the law almost entirely ineffectual. The "all-others" rate, which is applied to all non-investigated exporters, is a weighted average of dumping margins calculated for individually investigated exporters. When individually investigated exporters do not provide Commerce with all of the data necessary to calculate a dumping margin, Commerce will use "facts available" as a proxy for such data either in whole or in part. This means that Commerce will supplement an exporter's data with generally available public information. Where an exporter has not provided any information, and Commerce is forced to rely entirely on facts available, existing U.S. law precludes Commerce from then using the resulting margin of that individually investigated entity in a weighted average calculation to determine the "all-others" rate.

H.R. 2473 would remove the word "entirely" from subparagraphs (A) and (B) of section 735(c) (5) of the Tariff Act of 1930. The practical effect of such deletion is that Commerce would then also be precluded from including any individually-investigated exporter's margin, based in part on facts available, in its calculation of the "all-others rate." As it is often the case that at least a small part of an exporter's dumping margin is calculated using facts available, the enactment of H.R. 2473 would mean that in a large majority of cases, Commerce would have no usable margins by which to calculate an "all-others rate." This would create serious administrative difficulties for Commerce and would substantially weaken the antidumping law.

It is also the case that both H.R. 1121 and H.R. 2473 appear to be in response to decisions of panels and the Appellate Body of the World Trade Organization ("WTO"). Inclusion of these bills in the miscellaneous trade package is not the appropriate forum to effect changes to U.S. Trade Laws in order to implement WTO panel or Appellate Body reports. This is particularly significant as Congress and the Administration have been concerned that WTO Panels and the Appellate Body have engaged in overreaching in their decision on CDSOA, on the calculation of the "all-others rate," and on other issues by creating obligations that the U.S. never agreed to and which do not appear in the text of the WTO Agreements. The more appropriate form to deal with resolution of these issues is through the Doha Round negotiations.

In conclusion, we strongly oppose the inclusion of H.R. 1121 and H.R. 2473 in the miscellaneous trade package for the reasons stated herein. This legislation should be non-controversial, and, therefore, not include bills that would attract significant opposition and undermine U.S. trade laws.

Thank you for your consideration of our comments.

Respectfully submitted,

Augustine J. Sperrazza, Jr.
Chairman and CEO

Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of America
Billings, Montana 59107
September 2, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

The Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of America (R–CALF USA) is submitting these comments in response to the Subcommittee's request for written comments for the record from all parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. R–CALF USA is a national, non-profit organization dedicated to ensuring the continued profitability and viability of the U.S. cattle industry. R–CALF USA has more than 18,000 members, primarily cow-calf operators, cattle backgrounders, and feedlot owners, located in 47 states.

R–CALF USA welcomes the opportunity to comment on the bills being considered for inclusion in the miscellaneous package, in particular H.R. 1121, "A bill to repeal section 754 of the Tariff Act of 1930," and H.R. 2473, "A bill to amend the Tariff Act of 1930 relating to determining the all-others rate in antidumping cases."

H.R. 1121 and H.R. 2473 are not well suited for inclusion in the miscellaneous trade package. These bills are likely to attract significant controversy and would constitute major changes to U.S. trade remedy laws. R–CALF USA supports maintaining strong and effective trade laws. Such laws are necessary to ensure a level playing field for U.S. ranchers, cattlemen, and farmers, as well as U.S. manufacturers and workers. In a fair market, U.S. producers are second to none. When foreign competitors flood the U.S. market with dumped

and subsidized goods, however, the trade laws must be in place to provide a remedy for injury caused by unfairly traded imports. R–CALF USA believes it would be inappropriate to use the miscellaneous trade bill to weaken those laws, but that will be the effect if H.R. 1121 and H.R. 2473 are included in the package.

H.R. 1121 proposes to repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"). CDSOA is a program that distributes antidumping and countervailing (AD/CVD) duties when dumping or subsidization continues after AD/CVD orders are imposed. The existence of continued dumping and subsidization indicates that fair market conditions have not been restored and that the industry that was found to be injured by dumped or subsidized imports is not getting the remedy intended by the statute. CDSOA funds are distributed to certain domestic parties for eligible expenditures on plant, equipment, and people, that is, for reinvesting in their businesses. The program is funded using duties collected on dumped and subsidized imports. If dumping or subsidization stops after an order is issued, there are no funds to distribute. CDSOA does not change how dumping margins or subsidy rates are calculated or how much duty must be paid. The program simply distributes moneys pursuant to generally applicable criteria when unfair trade practices do not cease. CDSOA enjoys wide bi-partisan support among Members of Congress and the public, and any legislation to repeal it would attract substantial controversy and strong opposition. Thus, R–CALF USA believes that H.R. 1121 should not be included in the miscellaneous trade bill.

H.R. 2473 proposes to amend the antidumping law to delete the word "entirely" from subparagraphs (A) and (B) of section 735(c)(5) of the Tariff Act of 1930. While this may appear to be a small change, in reality, if enacted, H.R. 2473 could prevent Commerce from effectively enforcing the antidumping law. H.R. 2473 would make it virtually impossible for Commerce to calculate "all-others" dumping margins for non-investigated exporters in most cases. The "all-others" rate, which is applied to non-investigated exporters, is a weighted average of dumping margins calculated for individually investigated exporters. Margins based entirely on "facts available" data are excluded from the average under the current law. "Facts available" data is information Commerce uses as a substitute for actual company-specific data when a respondent company does not supply all the data necessary to calculate a dumping margin. Margins that are based only in part on facts available are used to calculate the "all-others" rate because many dumping margins calculated by Commerce are based on at least some "facts available" data.

H.R. 2473 would require Commerce to exclude all dumping margins based on any amount of "facts available" information from the "all-others" rate calculation. The effect of this would be, in most cases, that Commerce would be left with no margins to calculate an "all-others" rate. This would result in serious administrative difficulties for the Department, which would consequently weaken the antidumping law. Hence, H.R. 2473 is likely to attract significant controversy and would likely not be administrable by the Commerce Department.

R–CALF USA is also concerned that H.R. 1121 and H.R. 2473 appear to be efforts to implement adverse decisions of panels and the Appellate Body of the World Trade Organization ("WTO"). The miscellaneous trade bill is not an appropriate means by which to implement such decisions and enact changes in major U.S. trade laws. Furthermore, Congress and the Administration have been critical of overreaching by WTO panels and the Appellate Body and have expressed concern that the decisions on CDSOA and the "all-others" rate, in particular, created new obligations that the United States never agreed to and which are not found in the text of any WTO Agreement. In addition, Congress has previously directed the Administration to negotiate a resolution of these disputes at the WTO. The Administration is currently engaged in the Doha Round rules negotiations and should be allowed to complete that process, which ought to result in a correction of the problems created by panel and Appellate Body overreaching.

Because H.R. 1121 and H.R. 2473 are both controversial bills that are likely to draw strong opposition, and because their enactment would cut short the ongoing process of negotiations at the WTO, the Subcommittee should deem them inappropriate for inclusion in the miscellaneous trade package.

Again, R–CALF USA appreciates the opportunity to submit these comments and would like to thank the Subcommittee for taking into account R–CALF USA's views on the two bills discussed above.

Leo R. McDonnell
President

Sioux Honey Association
Sioux City, Iowa 51101
August 24, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

Our Company, Sioux Honey Association, Cooperative, is an agricultural cooperative founded in 1921 by five beekeepers who lived near Sioux City,Iowa, by pooling together $200.00 and 3,000 pounds of honey as an experimental marketing project. The Association's corporate office is in Sioux City, Iowa with branch plants in Anaheim, California and Waycross, Georgia and employs 82 employees. The cooperative is owned and operated by its' 307 Member beekeepers from 24 States and this accounts for 20% of the domestic honey crop and 15% of the honey sold in the U.S.

The 307 beekeepers that are Members of the Association are a critical resource to the nation's food industry. These Members are the largest organized group of beekeepers in the U.S. impacting agriculture. Honeybees do 80% of the pollinating for one-third of the human diet that is derived from insect-pollinated plants. Pollination by honeybees also affects over 100 crops nationwide with a combined annual value of $10 billion, according to the U.S. Department of Agriculture.

Sioux Honey Association strongly opposes H.R. 1121 in the Miscellaneous Tariff Bill ("MTB") calling for the repeal of the CDSOA. The Association also strongly opposes H.R. 2473 (also contained in the MTB) which alters the calculations of the "all others" rate in AD/CVD cases, which would significantly reduce the amount of duties collected and distributed under CDSOA.

CDSOA has worked well for U.S. companies and their workers. CDSOA simply transfers the Customs duty assessed on foreign competitors for violations of U.S. trade laws directly to the U.S. companies that face this unfair and persistent foreign competition. These funds are only for continued illegal acts no duties are accessed and available to injured parties unless a competitor continues to violate our laws.

Our Members have benefited from CDSOA by being able to continue to invest in their facilities and workers, preserving U.S. jobs, and their family businesses.

Our expectations are that Congress will actively support manufacturing jobs in the U.S. by opposing the repeal of the CDSOA and by supporting the U.S. government's sovereign right to distribute taxes as determined by Congress by fighting efforts to undermine the CDSOA in the World Trade Organization. Congress has called for our trade negotiators in the ongoing Doha Round to push for revision of the WTO agreements so that CDSOA and similar programs relating to individual countries' use of the AD/CVD duties they collect will be expressly accepted as WTO consistent. This is the way to resolve the WTO dispute that is the basis for calls to repeal the Byrd Amendment.

David Allibone
President/CEO

Stewart and Stewart
Washington, DC 20037
September 1, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

The following comments are submitted in response to Advisory No. TR–3, dated July 29, 2005, in which the Subcommittee on Trade requested "written comments for the record from all parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals," and "public comment on those bills listed" in the advisory.

Two of the bills listed in the advisory are of particular concern: H.R. 1121, "A bill to repeal section 754 of the Tariff Act of 1930," and H.R. 2473, "A bill to amend the Tariff Act of 1930 relating to determining the all-others rate in antidumping cases." These bills are unsuitable for inclusion in the miscellaneous trade bill. As explained further below, each bill attempts to implement controversial adverse WTO decisions, each would weaken U.S. trade remedy laws, and each would attract significant controversy. In addition, H.R. 2473 would likely not be administrable by the Commerce Department. Hence, H.R. 1121 and H.R. 2473 do not meet the criteria for bills that have historically been part of the non-controversial miscellaneous trade package.

Controversial Adverse WTO Decisions That Have Been Criticized by Congress and the Administration Should Not Be Implemented Using the Miscellaneous Trade Bill

It is evident that H.R. 1121 and H.R. 2473 seek to implement decisions of World Trade Organization ("WTO") panels and the Appellate Body in disputes that were decided adversely to the interests of the United States.[1] However, the miscellaneous trade bill should not be used to amend major U.S. trade laws to implement controversial WTO panel or Appellate Body reports. This is at odds with the stated and historical purpose of such non-controversial legislation.

Furthermore, in the Trade Act of 2002, Congress noted its growing apprehension about WTO dispute settlement proceedings:

(A) the recent pattern of decisions by dispute settlement panels of the WTO and the Appellate Body to impose obligations and restrictions on the use of antidumping, countervailing, and safeguard measures by WTO members under the Antidumping Agreement, the Agreement on Subsidies and Countervailing Measures, and the Agreement on Safeguards has raised concern; and

(B) the Congress is concerned that dispute settlement panels of the WTO and the Appellate Body appropriately apply the standard of review contained in Article 17.6 of the Antidumping Agreement, to provide deference to a permissible interpretation

[1] Specifically, United States—Continued Dumping and Subsidy Offset Act of 2002, DS217, DS234 (adopted on January 27, 2003), and United States—Anti-dumping Measures on Certain Hot-Rolled Steel Products from Japan, DS184 (adopted on August 23, 2001).

by a WTO member of provisions of that Agreement, and to the evaluation by a WTO member of the facts where that evaluation is unbiased and objective and the establishment of the facts is proper.[2]

In light of its misgivings, Congress called on the Administration to prepare a "report setting forth the strategy of the executive branch to address concerns of the Congress regarding whether dispute settlement panels and the Appellate Body of the WTO have added to obligations, or diminished rights, of the United States."[3] In the report it transmitted to Congress, the Administration was likewise critical of WTO dispute settlement, stating that:

the United States does not agree with the approach that WTO panels and the Appellate Body have sometimes taken in disputes, and is concerned about the potential systemic implications. In particular, the executive branch views with concern the manner in which WTO panels and the Appellate Body have applied the applicable standard of review in disputes involving U.S. trade remedy and safeguard matters, and instances in which they have found obligations and restrictions on WTO Members concerning trade remedies and safeguards that are not supported by the texts of the WTO agreements. . . .[4]

The Administration has identified the disputes concerning the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA") and the "all-others" rate, among others, as particular instances wherein obligations that have no textual basis in the WTO Agreements were created and imposed on the United States by WTO panels and the Appellate Body. About CDSOA, the Administration has stated that:

The Appellate Body—created a new category of prohibited subsidies that ha[s] neither been negotiated nor agreed to by WTO Members.[5]

With respect to the "all-others" rate decision in the Hot-Rolled Steel dispute, the Administration has pointed out that:

the Anti-Dumping Agreement [does] not explicitly require that margins containing any amount of "facts available" be excluded from the "all others" calculation: it [is] silent as to the amount of "facts available" that trigger[] exclusion. Given that the Anti-Dumping Agreement [is] ambiguous on the degree of "facts available" which require[] exclusion, Article 17.6 required that permissible interpretations such as that of the United States be accepted. Further, the Appellate Body—resolved the ambiguity in a way that did not foster predictability in the calculation of the "all others" rate and that did not fully take into account the practical side of calculating an "all others" rate.[6], [7]

The miscellaneous trade bill should not be used to implement these or any other instances of overreaching by WTO panels and the Appellate Body.

In fact, implementation of these decisions through the enactment of H.R. 1121 and H.R. 2473 would contravene previous expressions of Congressional intent. The Trade Act of 2002 called for a "comprehensive strategy for correcting instances in which dispute settlement panels and the Appellate Body have added to obligations or diminished rights of the United States."[8] Even more explicitly, with respect to CDSOA, in the Consolidated Appropriations Acts of 2004 and 2005, Congress directed "[t]hat negotiations shall be conducted within the World Trade Organization to recognize the right of members to distribute monies collected from antidumping and countervailing duties."[9] The negotiations called for by Congress are ongoing in the context of the WTO Doha Round on both of these issues. Those negotiations should be allowed to run their course to see if the problems created by panel and Appellate Body overreaching can be corrected. Enactment of H.R. 1121 and H.R. 2473 would undercut the possibility of the negotiated resolution envisioned by Congress.

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[2] 19 U.S.C. § 3801(b)(3).

[3] 19 U.S.C. § 3805(b)(3).

[4] Executive Branch Strategy Regarding WTO Dispute Settlement Panels and the Appellate Body—Report to the Congress Transmitted by the Secretary of Commerce, at 7 (Dec. 31, 2001).

[5] Dispute Settlement Body, Minutes of Meeting, Held in the Centre William Rappard on 27 January 2003, WT/DSB/M/142, at para. 55 (March 6, 2003).

[6] Dispute Settlement Body, Minutes of Meeting, Held in the Centre William Rappard on 23 August 2001, WT/DSB/M/108, at para. 73 (October 2, 2001).

[7] The Senate Report on the Trade Act of 2002 also specifically identified the Hot-Rolled Steel dispute as being among the disputes in the "recent pattern" about which Congress was concerned. S. Rep. 107–139, at 54 (2002).

[8] S. Rep. 107–139, at 55 (2002).

[9] Consolidated Appropriations Act, 2004, P.L. 108–199 (Jan. 23, 2004); Consolidated Appropriations Act, 2005, P.L. 108–447 (Dec. 8, 2004).

The Miscellaneous Trade Bill Should Not Weaken U.S. Trade Remedy Laws

There has been broad, consistent, and longstanding support for the trade remedy laws in Congress. Strong and effective trade remedy laws are key to ensuring a level playing field for U.S. manufacturers, farmers, ranchers, and workers, and for maintaining public support for further trade liberalization. Consistent with these principles, Congress declared in the Trade Act of 2002 that:

The principal negotiating objectives of the United States with respect to trade remedy laws are—

(A) to preserve the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws, and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies, or that lessen the effectiveness of domestic and international safeguard provisions, in order to ensure that United States workers, agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions; and

(B) to address and remedy market distortions that lead to dumping and subsidization, including overcapacity, cartelization, and market-access barriers.[10]

In addition, the Conference Report accompanying the Trade Act of 2002 recognized:

the importance of preserving the ability of the United States to enforce rigorously its trade remedy laws, including the antidumping, countervailing duty and safeguard laws. Because this issue is significant to many Members of Congress in both the House and Senate, the Conferees have made this priority a principal negotiating objective. Negotiators must also avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, as well as domestic and international safeguard provisions.[11]

The Senate Report likewise noted that "[p]reserving the ability to respond promptly and effectively to unfair trade practices and to harmful import surges is critical to maintaining support in the United States for an open, rules-based trading system."[12] In light of these unambiguous expressions of support for strong trade remedy laws, any bill that would weaken those laws can be expected to attract significant controversy and substantial opposition. The miscellaneous trade bill, which has historically been non-controversial legislation, should not incorporate any bills that would have the effect of weakening U.S. trade remedy laws.

H.R. 1121 Would Weaken U.S. Trade Remedy Laws and Should Not be Part of the Miscellaneous Trade Bill

H.R. 1121 proposes to repeal CDSOA. However, there is wide bi-partisan support among Members of Congress and the public for CDSOA.[13] Any legislation to repeal it would attract substantial controversy and strong opposition. Moreover, CDSOA is an effective program and its repeal would weaken the trade remedy laws.

CDSOA distributes funds to certain domestic parties when industries have been found to be injured by dumped and subsidized imports. The funding for CDSOA comes from duties collected on dumped and subsidized imports where dumping and subsidization continue after AD/CVD measures have been put into place. Where dumping or subsidization ceases as intended, no funds are available to distribute. CDSOA has a wide range of beneficiaries, including companies, farmers, ranchers, and unions, who are eligible to receive distributions for qualifying expenditures on manufacturing facilities; equipment; research and development; personnel training; acquisition of technology; health care benefits; pension benefits; environmental equipment, training, and technology; acquisition of raw materials and other inputs; and working capital or other funds needed to maintain production.

CDSOA does not alter the methodology used by the Commerce Department to calculate dumping/subsidy margins, and CDSOA has no effect on how much duty must be paid on dumped and subsidized imports. CDSOA merely distributes funds pursuant to generally applicable criteria when unfair trade practices do not cease. Additionally, despite concern raised in the press and elsewhere, CDSOA has not created an incentive for U.S. producers to file new antidumping and countervailing duty cases. In fact, as the House Committee on Appropriations recently noted, the num-

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[10] 19 U.S.C. § 3802(14).

[11] H.R. Rep. 107–624, at 156 (2002).

[12] S. Rep. 107–139, at 54 (2002).

[13] For example, in 2003, following an adverse WTO decision on CDSOA, 70 Senators signed a letter to the President supporting the law. That letter expressed their concern that the Appellate Body had overreached by imposing new obligations on the United States, and it urged the President to seek express recognition of the right of WTO Members to maintain programs like CDSOA.

ber of antidumping and countervailing duty investigations conducted by Commerce has "decreased significantly" in recent years.[14]

CDSOA is an effective program that enjoys broad support, and repealing CDSOA would weaken the trade remedy laws. H.R. 1121 is thus likely to attract significant controversy and should not be included as part of the miscellaneous trade bill.

H.R. 2473 Would Weaken U.S. Trade Remedy Laws and Would Not Be Administrable, So it Should Not be Part of the Miscellaneous Trade Bill

H.R. 2473 proposes to amend the antidumping law by deleting the word "entirely" from subparagraphs (A) and (B) of section 735(c)(5) of the Tariff Act of 1930.[15] This modification would, in many cases, effectively make it impossible for Commerce to calculate an "all-others" dumping margin.

The "all-others" dumping margin is the rate applied to imports from all non-investigated exporters. It is a weighted average of dumping margins calculated for individually investigated exporters. In calculating dumping margins for individually investigated exporters, Commerce may use "facts available" as a substitute for certain company-specific data when a respondent company fails to supply all the data necessary to perform the calculation. Those dumping margins based only partially on facts available are included in the weighted average calculated for the "all-others" rate. Where a dumping margin calculated for an individually investigated exporter is based entirely on "facts available," however, that specific margin is currently excluded from the weighted average used for the "all-others" rate. The inclusion of dumping margins partially based on "facts available" in the calculation of the "all-others" rate is necessary, as many dumping margins calculated by Commerce are based on at lease some "facts available" data.

H.R. 2473 proposes to prohibit Commerce from calculating the "all-others" rate using any dumping margins based on any amount of "facts available" information. Thus, in many cases, it would be impossible for Commerce to calculate an "all-others" rate, because it would have no usable margins with which to calculate a weighted average. H.R. 2473 would create serious administrative difficulties for Commerce because it provides no alternative means of calculating an "all-others" rate in such cases. Consequently, H.R. 2473 would substantially weaken the antidumping law, it is likely to attract significant controversy, and it would not be administrable. H.R. 2473 is therefore not appropriate for inclusion in the miscellaneous trade bill.

H.R. 1121 and H.R. 2473 Should Not be Included in the Miscellaneous Trade Bill

For the reasons detailed above, H.R. 1121 and H.R. 2473 are both likely to attract significant controversy and strong opposition. In addition, it is unlikely that H.R. 2473 would be administrable by the Commerce Department. Consequently, H.R. 1121 and H.R. 2473 do not meet the established criteria for inclusion in the miscellaneous trade bill. The Subcommittee should exclude H.R. 1121 and H.R. 2473 from consideration as part of the miscellaneous trade bill.

Thank you for taking these comments into account as you debate these important matters.

Terence P. Stewart

The Garlic Company
Bakersfield, California 93314
August 29, 2005

To: Ways and Means Committee Submittal

We are the owners of The Garlic Company. The Garlic Company packs and ships both fresh and peeled garlic. We employ approximately 125 full time employees and 325 employees seasonally.

We are very strongly opposed to H.R. 1121 Miscellaneous Tariff Bill (MTB) calling for the repeal of the CDSOA. We are also very strongly opposed to H.R. 2473(in the MTB), which alters the calculations of the "all others" rate AD/CVD cases. This would significantly reduce the amount of duties collected and distributed under CDSOA.

The distributions made to The Garlic Company under the CDSOA have helped in our survival against the massive amounts of imports from China. However these distributions have not been the "windfall" that one reads in many publications and

[14] H.R. Rep. No. 109–118, at 75 (2005).
[15] 19 U.S.C. § 1673d(c)(5).

hears from some politicians. The distributions contribute but do not fully compensate for damage done to our industry by unscrupulous Chinese importers. Distributions made to The Garlic Company have enabled us to make some improvements to our processing systems, which have contributed to lowering our cost. It has also allowed us to continue to employ our attorney group, which has been instrumental in defending ourselves against dishonest Chinese importers of fresh and peeled garlic. Through this group we have been able to give both Customs and the Department of Commerce valuable information. This information has led to a "crack down" on the never—ending scams and schemes of the unscrupulous Chinese garlic importers. This unscrupulous activity also harms the legitimate Chinese importer. In the past ten years, our group, has supplied information to either the Department of Commerce or Customs that has led to action against the following schemes:

1) False declaration of the country of origin concerning Chinese garlic. This results in no duties paid or collected on Chinese garlic. This Chinese garlic is sold at very low prices thus driving down the price of domestic garlic and legitimate Chinese garlic.

2) Under declaring the value of imported Chinese garlic to avoid paying higher duties. In some cases this value was placed at a one-cent or a fraction of a cent. This results in incorrect and small amounts of duties being collected. This garlic is sold at far below market prices, which lowers the market for domestic and legitimately imported Chinese garlic.

3) Under declaring the amounts shipped within a container. This results in no duty being paid on the amounts undeclared within the container which enables the importer to sell at a lower than market price. This damages the market for the domestic shipper and the legitimate Chinese shipper.

4) Smuggling Chinese garlic from Canada into the United States. This results in no duties being collected and garlic that sells below the market price, which damages both the domestic shipper and legitimate importer.

5) Falsification of import documents. Chinese importers with high duty rates use the import information of Chinese importers with low or no duty rates. This many times occurs without the knowledge of the Chinese importer with the lower duty rates. This results in little or no duty being collected and damages the market for both the domestic shipper and legitimate Chinese importer.

6) Falsely declaring the contents of a container. An importer will load a container with garlic and declare it to be ginger or some other non-duty commodity. This results in no duties paid and harms the market for both the domestic shipper and legitimate Chinese importer.

These schemes and shams are something that a domestic garlic producer has to live with on a daily basis. Through our group's efforts and with the help of some legitimate Chinese importers we are able to gather information, which has helped both the Department of Commerce and Customs, curtail some of this activity. We understand these government agencies are understaffed and overworked so any creditable information that we can supply is helpful and saves tax dollars for all Americans. Domestic garlic producers can compete with legitimate Chinese garlic importers; we cannot compete against the unscrupulous importers of Chinese garlic. The CDSOA funds we receive partially help to uncover and stop the scams and schemes of the unscrupulous Chinese importers. This is essential to our survival.

No country can survive as a service oriented country. We need to support manufacturing and agriculture jobs in this Country for the long-term benefit of all our citizens. We expect our politicians to do their part by opposing the repeal of the CDSOA.

We also expect our politicians to support the United States sovereign right to distribute taxes as determined by Congress by fighting efforts to undermine the CDSOA in the World Trade Organization. We understand that Congress has called for our trade negotiators in the ongoing Dpha round to push for revision of the WTO agreements. We particularly agree that CDSOA and similar programs relating to individual countries' use of the AD/CVD duties they collect will be expressly accepted as WTO consistent. We feel this is the method to resolve the WTO dispute that is the basis for calls to repeal the Byrd Amendment. Thank you for your efforts in reviewing this very important issue.

With best regards,

Joe Lane

John Layous

United States Steel Corporation
Washington, DC 20004
September 2, 2005

The Hon. E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade
U.S. House of Representatives
Committee on Ways and Means
1104 Longworth House Office Building
Washington, DC 20515–6354

Dear Mr. Chairman:

On behalf of United States Steel Corporation ("U.S. Steel"), we would like to respond to your request for written comments with respect to technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. U.S. Steel fully endorses the comments submitted by the American Iron and Steel Institute opposing the inclusion of H.R. 1121 and H.R. 2473 in the miscellaneous tariff bill.

Both of the bills at issue are controversial and have no place in a measure intended to include non-controversial tariff adjustments and other similar measures. H.R. 1121 would repeal the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"), apparently in response to a groundless dispute settlement decision at the World Trade Organization ("WTO"). CDSOA plays a critical role in assisting industries and workers injured by unfair trade, and Congress has clearly expressed its view that this issue should be resolved in ongoing WTO negotiations. Similarly, H.R. 2473 attempts to respond to another flawed WTO decision, one which involves a highly technical issue, and which could negatively impact enforcement of U.S. antidumping laws. Such a complex matter should not be addressed in a miscellaneous tariff bill.

We appreciate the chance to comment on these issues.

Terrence D. Straub
Senior Vice President—Public Policy & Governmental Affairs

United Steelworkers
Pittsburgh, Pennsylvania 15222
August 31, 2005

The Honorable E. Clay Shaw
Chairman
Trade Subcommittee
House Committee on Ways and Means
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

On behalf of the United Steelworkers union (USW), I am writing in response to the request for public comments regarding technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. The United Steelworkers would like to state its strong objections to the inclusion of two proposals (H.R. 1121 and H.R. 2473) in the package of bills the Committee is considering on policy grounds and because they are highly controversial.

The miscellaneous tariff package should not be a vehicle for making major policy changes nor for addressing World Trade Organization compliance issues. While the USW opposes the underlying legislation, the process should allow for individual consideration, debate and votes on issues as important as that which the bills cover.

H.R. 1121:

H.R. 1121 would repeal the Continued Dumping and Subsidy Offset Act (CDSOA)—also known as the Byrd Amendment. CDSOA has helped to ensure that producing interests here in the U.S. that have been victimized by unfair and predatory trade practices will be able to continue to invest in plant, equipment and people in the face of continuing illegal actions by our trading partners. We must maintain the basic components of our trade law that give us the ability to fight for the public interest. The WTO decision with regard to CDSOA seeks to impose obligations on the U.S. that were never agreed to at the negotiating table. This not only undermines our economic interests, but undermines support for the WTO overall.

Congress has spoken out on this issue in a number of different ways—primarily by asking our United States Trade Representative to negotiate for the retention of

the CDSOA as part of the Doha Round. The USW's view is that this is the right policy to pursue on its own merits, but will also increase confidence among the public that their government will fight for their interests. We believe that the USTR needs to be given the time—and the support—necessary to be successful in these negotiations. And, the WTO as an institution, and other

WTO members need to recognize that an open trading system will not survive based on arbitrarily imposed obligations, but must be rules-based.

Reaching a negotiated solution at the WTO that allows the U.S.—and our trading partners—to distribute tariff revenues as they do any other funds available to a government and with no additional restrictions is the appropriate course to follow.

CDSOA is already a provision of U.S. law and, therefore, its retention is currently assumed in the budget baseline. Repealing CDSOA would be correctly viewed by many as imposing new and higher costs on our farmers, workers and businesses. A miscellaneous trade package should not increase costs to U.S. agricultural and business interests. As you know, CDSOA allows for the reimbursement of eligible investments by injured parties in plant, equipment and people. Repealing this law could dramatically increase the cost of doing business and diminish the investments that are needed for these entities to remain competitive in the face of unfair and predatory trade practices by our competitors. Miscellaneous trade legislation should not be the vehicle for a revenue increase on U.S. taxpayers.

CDSOA retains enormous support among Members of Congress and the public. We would hope that the final package you develop would not include H.R. 1121 or any proposals to modify or repeal CDSOA.

H.R. 2473:

H.R. 2473 seeks to amend the antidumping laws of the country to alter how the "all other" rate is calculated. This legislative proposal is intended to respond to a decision by a WTO Appellate Body. The "all other" rate should continue to be a permissible practice and its retention will ensure that our trade laws can continue to function as Congress intended. H.R. 2473 would, in fact, increase the difficulty in administering our trade laws—an issue which the Appellate Body recognized when they issued their decision.

Inclusion of these bills would result in the proposed package becoming extremely controversial and would attract substantial opposition. The underlying issues which the bills seek to impact are import policy considerations on their own. As well, overreaching by the WTO is an important issue for the Congress to address—and should not seek to minimize that debate through consideration of major policy changes and compliance as part of what is generally considered to be a non-controversial package of legislation.

Sincerely,

William J. Klinefelter
Assistant to the President

Wellman, Inc.
Fort Mill, South Carolina 29715
August 26, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
House Ways and Means Committee
Subcommittee on Trade
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw:

On behalf of the more than 1900 employees of Wellman, Inc., the largest manufacturer of polyester staple fiber in the United States, with plants located in South Carolina and Mississippi, I wish to express our strong opposition to H.R. 1121 in the Miscellaneous Tariff Bill ("MTB") calling for the repeal of the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"), also known as the Byrd Amendment. In addition, I am also strongly opposed to H.R. 2473 (also contained in the MTB), which alters the calculation of the "all other" rate in AD/CVD cases, which would significantly reduce the amount of duties collected and distributed under CDSOA.

CDSOA distributes dumping and countervailing duties finally assessed to U.S. manufacturers harmed by dumped and subsidized imports. Repealing or modifying this law would be catastrophic for U.S. manufacturers in general and polyester sta-

ple fiber producers in particular. This law was enacted as a remedy for industries grievously injured by unfair trade, such as the U.S. polyester staple fiber industry. We should be strengthening our laws against unfair trade, not abandoning them.

I expect that Congress will actively support manufacturing jobs in the U.S. by opposing repeal of the CDSOA and by supporting the U.S. government's sovereign right to distribute taxes as determined by Congress by fighting efforts to undermine the CDSOA in the World Trade Organization.

I urge you to vote against any effort to repeal or modify the CDSOA.

Thomas M. Duff
Chairman and Chief Executive Officer

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515
The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

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H.R. 3309—To suspend temporarily the duty on nail clippers.
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H.R. 2477—To suspend, temporarily the duty on bicycle speedometers.
H.R. 2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-angle reflectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.
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These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

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Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

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Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

Clariant Corporation
Coventry, Rhode Island 02816
August 22, 2005

The Honorable E. Clay Shaw, Jr
Committee on Ways and Means
1102 LHOB
U.S. House of Representatives
Washington, DC

Dear Chairman Shaw,

I am writing on behalf of the Textile, Leather, Paper Division of Clariant Corporation to object to the suspension of duty on the substance identified in H.R. 2537, introduced by Representative Frelinghuysen on May 23. H.R. 2537 proposes to extend the duty suspension on certain organic pigments and dyes.

In the bill, the description of the compounds for which duty suspension is being requested is vague but the pigments and dyes are apparently used in "luminescent security applications". According to the description given, the compounds in H.R. 2537 compete against product made by Clariant at our Martin, SC facility. (We make and sell Security Indicator APX liquid which is CAS # 6359–10–0, synthesizing as well the intermediate stage, CAS # 51517–45–4).

Clariant is a major manufacturer of specialty chemicals and employs approximately 180 people in the Martin, SC plant.

Clariant opposes the extending of temporary duty suspension in H.R. 2537.

Sincerely,

Dan Packer
Director of Technical Development

Sun Chemical Corp
Cincinnati, Ohio 45232
August 23, 2005

Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Committee Members:

We strongly oppose the elimination of import duties on the following pigment:
3204.17.04 Pigment Red 188
CI Number: 12467 Class: Monoazo
Hue: Yellowish Red CAS: 61847–48–1

Use: Paint & Other
Sun Chemical produces CI Pigment Red 188 in the United States at the Bushy Park plant and any suspension of import duty would put us at a competitive disadvantage with foreign producers.

Sincerely,

Edwin B. Faulkner
Director—Product Management & Communications

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

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Wal-Mart Stores, Inc.
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Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

Milliken and Company
Washington, DC 20006
August 29, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

I am writing on behalf of Milliken & Company to strongly support H.R. 2573, a bill to suspend temporarily the duty on cuprammonium rayon yarn, introduced by Congressman Gresham Barrett, and included in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension bill.

Milliken is one of the world's largest diversified textile and chemical companies, employing more than 12,000 in the United States. The company operates 40 manufacturing facilities in the southeast and is headquartered in Spartanburg, South Carolina.

Our use of cuprammonium rayon yarn has been to fill a market demand for unique and highly specialized lining fabric for high-end men's and women's tailored suits. There is no U.S. producer of cuprammonium rayon yarn. For this reason Milliken and other domestic users have imported this yarn from Japan and Italy, the sole producers of cuprammonium rayon yarn in the world. Additionally, according to decisions by the U.S. International Trade Commission—ITC (attachment 1) and the Committee to Implement Trade Agreements—CITA (attachment 2); *there is no substitutable product available domestically.*

Cuprammonium rayon fabric has a variety of end uses, ranging from quality linings, lingerie, fashion and casual apparel fabrics, velvet, ribbons and other textile fabrics for home furnishing. This product has a silky luster, does not cling, is soft to the hand, and has superior color retention properties. Most importantly, because of the fiber density, we are able to weave this yarn into a very fine fabric, and still maintain its strength. The unique characteristics of cuprammonium filament products justify the high price paid by domestic users—**$5.00/lb** (duty paid).

There are those that claim that acetate products, produced in the United States, are interchangeable with cuprammonium yarn products. Indeed, both acetate and cuprammonium rayon fabrics are used as lining for suits, however they serve very different functions in the marketplace—one for high-end clothing, and one for lower price point garments. Furthermore, there is ample data, both scientific and technical, that contradicts the stance that they are like products.

Acetate yarn is usually derived from wood pulp, while cuprammonium rayon filament is usually derived from short cotton linters; the process by which these yarns are made is also quite different. Rayon filament fiber is much denser than acetate, meaning it can be finely woven and still maintain its strength. Acetate has a greater capacity to stretch. These products must be dyed differently and react differently to heat. Rayon chars and decomposes, while acetate softens and melts, at different temperatures. Rayon will absorb four to five times more water than acetate, impacting wearing comfort. And finally, the "hand", sheen, and creping action, as seen by the staffs of the ITC and CITA, were found to be very different. For all these reasons, it was established (see attached reports), that these two products were not substitutable.

One last point refers to the price of both these products. Domestically produced Acetate is sold to the domestic textile industry at about $2.00/lb. In contrast, the average import price of cuprammonium rayon filament yarn, including the agent's mark-up and duty is more than double this price at $5.00/lb. Why do users of imported rayon yarn pay this price? Because ultimately, the marketplace is the arbiter and it is clear that the consumer will pay extra for high-quality apparel and home furnishings fabric.

Milliken & Company is committed to a strong domestic manufacturing base, including the fiber, textile and apparel complex. With this document we seek to distinguish the cuprammonium rayon product from others thought to be substitutable and to argue that a duty suspension be considered.

In conclusion, the temporary suspension of duty (8%) on imported cuprammonium rayon yarn will benefit the U.S. consumer, apparel firms, the converters, dyers, fin-

ishers and weavers of rayon fabric and make us all more competitive. Thank you for the opportunity to contribute to this decision-making process.

Sincerely,

Joe Salley
President, Specialty Fabrics

U.S. International Trade Commission Investigation No. 332–428–010
Products Apparel of cuprammonium rayon filament yarn
Requesting Party Itochu International Inc., New York, NY [1]
Date of Commission Report: USTR
Public
January 7, 2002
THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON JANUARY 7, 2002. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***).

Summary of Findings

The Commission's analysis shows that granting duty-free and quota-free treatment to apparel made in eligible Caribbean Basin or sub-Saharan African countries from fabrics produced in the United States of cuprammonium rayon filament yarn (which is not made domestically), regardless of the source of the yarn, would likely have a negligible adverse effect on U.S. producers of yarns that are made from other artificial fibers (e.g., acetate) and that may compete with the subject yarn. It also would likely have a negligible adverse effect on U.S. producers of apparel fabrics made from these other yarns, but would benefit U.S. firms producing apparel fabrics made from the subject yarn. The proposed preferential treatment would likely benefit U.S. apparel firms assembling the apparel in eligible beneficiary countries, and their U.S.-based workers, but could have a slight adverse effect on U.S. firms making the apparel domestically, and their workers. U.S. consumers would likely benefit from some duty savings.

Background

On March 14, 2001, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332–428, *Apparel Inputs in "Short Supply": Effect of Providing Preferential Treatment to Apparel Imported from Sub-Saharan African and Caribbean Basin Countries,* under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice during 2001 in connection with petitions filed by interested parties under the "short supply" provisions of the African Growth and Opportunity Act (AGOA) and the United States-Caribbean Basin Trade Partnership Act (CBTPA).[2]

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? ? ? of Providing Preferential Treatment to ? ? ? el Imported from Sub-Saharan African

The Commission's advice in this report concerns a petition received by the Committee for the Implementation of Textile Agreements (CITA) on November 20, 2001, alleging that cuprammonium rayon filament yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting that the President proclaim preferential treatment for apparel made in eligible CBTPA or AGOA beneficiary countries from fabrics made in the United States of such yarn, regardless of the source of such yarn. The President is required to submit a report to the House Committee on Ways and Means and the Senate Committee on Finance that sets forth the action proposed to be proclaimed, the reasons for such action, and the advice obtained from the Commission and the appropriate advisory committee within 60 days after a request is received from an interested party.[3]

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[1] Itochu International, an importer of the subject yarn, filed the petition on behalf of Unifi, Inc., a yarn producer based in Greensboro, NC, and Symphony Fabrics, a fabric designer and converter in New York, NY. The reasons why Unifi and Symphony are requesting the preferential treatment are discussed in the "fiber and yarn producers" section of this report.

[2] For more information on the investigation, see the Commission's notice of investigation published in the Federal Register of March 21, 2001 (66 F.R. 15886) and its website at www.usitc.gov/332s/shortsup/shortsupintro.htm.

[3] In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial

Brief discussion of the product

The cuprammonium rayon filament yarn named in the petition is classified in subheading 5403.39.00 of the Harmonized Tariff Schedule of the United States (HTS), a residual or "basket" provision covering miscellaneous single filament yarn, (other than sewing thread), not put up for retail sale, of artificial fibers other than viscose rayon or cellulose acetate. This tariff provision covers both monofilament yarn, including monofilament of less than 67 decitex,[4] and multifilament yarn, with or without twist. The general rate of duty on this yarn is 8.4 percent ad valorem in 2002. The subject rayon yarn is processed into fabrics for use as a lining material, such as in high-quality clothing, and for making apparel classified in HTS chapters 61 (apparel, knitted or crocheted) and 62 (apparel, not knitted or crocheted). U.S. general rates of duty on imports of knitted and woven apparel made of the subject yarn range from 1.8 percent to 28.6 percent ad valorem in 2002.

The subject yarn is made of cuprammonium rayon, which is manufactured by chemical transformation of natural organic polymers in the form of cellulose derived exclusively from cotton linters (the short cotton fibers growing near the seeds of the cotton boll).[5] In general, in the cuprammonium process, the cellulosic raw materials are first brought to a liquid state by dissolving them in an alkaline solution of ammonia and copper hydroxide. The solution is then extruded through the holes of a spinneret (a "showerhead-like" metal disc having many tiny holes) into newly formed filaments. As the filaments are "pulled" or drawn off the spinneret, they undergo a "stretch spinning process" to make them both narrower (or finer) and longer. The filaments are drawn into an acid bath, which causes the material to solidify ("regenerate") into continuous filament. After extrusion, washing, and finishing, filaments are generally wound onto spools and may later be put up on warp beams to be used in weaving.[6]

The United States does not produce cuprammonium rayon, but imports the subject yarn mostly from Japan.[7] The petitioner stated that the imported subject yarn is a multifilament yarn made of many fine filaments. For example, the subject yarn having a yarn denier of 75 consists of 54 filaments and one having a yarn denier of 100 consists of 70 filaments. The yarn has zero twist; a special finish or spinning oil is applied to each filament so that the filaments are held together and the yarn is lubricated for further ? ? ?

? ? ? Carribbean Basin Countries

? ? ? processing. The imported yarn is in an unfinished state (i.e., in its natural color). The dyeing and finishing operations occur only after the yarn is processed into fabrics (known as piece dyeing). The subject yarn is manufactured only in Japan and Italy and is often referred to in the trade as "cupro" or as Bemberg yarn after the European firm (J.P. Bemberg Co.) that first made the yarn for commercial use in the early 1900s. According to the petitioner, the Asahi Kasei Corp., of Osaka, Japan, accounts for approximately 90 percent of world production of the yarn (marketed under the AsahiBemberg label), while Bemberg S.p.a. of Italy accounts for the remainder.[8] The cross section of most AsahiBemberg yarn is almost circular, which allows for the bright colors and silky luster of the yarn; the brightness of the yarn may be altered by adding delustering agents to the solution before extrusion.[9] The

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quantities in a timely manner. He authorized CITA and USTR to submit the required report to the Congress.

[4] Decitex is the linear density, or weight per unit length, of filament yarn (it indicates the weight in grams of 10,000 meters of yarn). The higher the decitex, the heavier is the yarn.

[5] Treated wood pulp may also be used to make cuprammonium rayon filament yarn; however, according to the petitioner, cotton linters are the only cellulosic raw materials now used in world production of such yarn. Reportedly, the use of cotton linters instead of wood pulp allows for the extrusion of a finer filament and the production of a yarn having much higher strength. Ryoma Omuro, Assistant Manager, Fiber and Yarn Department, and Jeff Vercellone, Itochu International Inc., New York, NY, telephone interviews by Commission staff, Nov. 30 and Dec. 18, 2001, respectively.

[6] U.S. Customs Service, “Fibers and Yarns: Construction and Classification Under the HTSUS,” Customs Bulletin and Decisions, vol. 34, No. 52, Dec. 27, 2000, pp. 142 and 143.

[7] U.S. production of cuprammonium rayon reportedly ceased in 1975 due to the significant cost of meeting clean-water standards (i.e., the cost of removing chemical pollutants from waste water of the manufacturing process). See Phyllis G. Tortora and Billie J. Collier, Understanding Textiles, 5th ed. (Upper Saddle River, NJ: Simon & Schuster, 1997), p. 143.

[8] Ryoma Omuro, Itochu International Inc., New York, NY, telephone interview by Commission staff, Dec. 6, 2001.

[9] Asahi Kasei Corp., "AsahiBemberg," pamphlet provided by Itochu International Inc.

filament fiber is highly porous, which results in easy dyeability, high moisture and water absorption, and compatibility with finishing resins.

Brief discussion of affected U.S. industries, workers, and consumers

The segments of the U.S. textile and apparel industries that might be affected by the proposed preferential treatment include producers of certain fibers, yarns, and fabrics for which the subject rayon filament yarn, or fabrics made from such yarn, may be substitutable, as well as dyers and finishers of these fabrics. The following section examines these industry segments and certain fabric purchasers.

Fiber and yarn producers

The United States does not produce cuprammonium rayon filament yarn, but does make other yarn from artificial or cellulosic fibers, specifically rayon and lyocell staple fibers and acetate filament.[10] The production of acetate filament fiber, which is made from wood pulp, also involves extruding a cellulosebased solvent through a spinneret. However, the chemical solvents and some of the manufacturing processes used in acetate production differ from those used to make the subject rayon filament yarn.

Rayon and lyocell staple fibers are spun into yarns much like cotton and wool fibers are spun into yarns. Filament fibers are produced as one continuous strand and, as part of the fiber manufacturing process, are often wound onto spools, cones, or beams as yarns or are combined with other filament fibers into yarns. Yarns and fabrics produced from staple fibers differ from those made from filament fibers in terms of physical qualities such as sheen, silkiness, texture, and durability. For example, cuprammonium rayon filament yarns are used to produce a shiny satin or velvet, while rayon or lyocell staple fiber yarns are used to make lightweight shirting or challis fabric.

The sole U.S. producer of rayon staple fiber is Lenzing Fibers, Lowland, TN, which stated that the equipment currently used to produce such fiber cannot be converted to produce a rayon filament yarn and that a plant conversion to produce such filament yarn would require a high level of capital investment.[11] The only U.S. producer of lyocell is Acordis Cellulosic Fibers Inc., New York, NY, which markets the product under the Tencel label. The firm currently makes Tencel in the United States only in staple form; ? ? ?

? ? ? NO FOOTNOTE REFERENCE FOR #12 [12] ? ? ?

Acetate filament fiber and yarn are made in the United States by Eastman Chemical Co., Kingsport, TN, and Celanese, Ltd., Greensboro, NC. Both firms stated that they consider the subject rayon filament yarn and acetate filament yarn to be interchangeable in the production of fabrics for use as linings in tailored clothing and to make certain women's apparel (for further information on these firms' views, see the "Views of Interested Parties" section of this report).

According to the petition filed by Itochu International, the subject rayon filament yarn and the acetate filament yarn are different in several respects. The subject yarn is much stronger because of the use of cotton linters as its cellulose base and, unlike the acetate yarn, has a smooth circular cross-section that provides a silky luster, softness, and more comfortable touch to the fabrics.[13] The subject yarn also costs much more than the acetate yarn. According to the petition, the average cost per pound is $4.50 for the subject yarn and about $2.00 for the acetate yarn. According to industry and academic sources, although the subject yarn and the acetate filament yarn are made by similar extrusion processes and can be processed into fabrics having a similar appearance, there are some significant differences in the physical characteristics of the resulting fabrics.[14] In particular, the moisture absorp-

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[10] Yarns are generally made of staple fibers or filaments. A filament is a very long (e.g., as much as miles in length), thin strand of extruded material, and consists mostly of manmade fibers (artificial and synthetic). Staple fibers usually measure 1 inch to 4 inches in length and include natural fibers (e.g., cotton and wool) and cut lengths of filament. In general, to form yarn from staple fibers (a term used to distinguish natural or cut-length manufactured fibers from filament), the fibers are first aligned in a parallel manner, and then wound together (spun) so that the fibers adhere to each other.

[11] Doug Noble, Lenzing Fibers, Lowland, TN, telephone interview by Commission staff, June 5 and 6, 2001.

[12] Donald Vidler, Commercial Director, Acordis Cellulosic Fibers Inc., New York, NY, telephone interview by Commission staff, Dec. 4, 2001. ***12

[13] Itochu International, Inc., New York, NY, petition for short supply designation for cuprammonium rayon filament yarn addressed to the Chairman of CITA, submitted on behalf of Unifi, Inc., Greensboro, NC, and Symphony Fabrics, New York, NY, Nov. 19, 2001, p. 3.

[14] Lee Gordon, Senior Vice-President for Product Development, Unifi Inc., Greensboro, NC; Dr. David Buchanan, Professor and Assistant Dean, College of Textiles, North Carolina State Uni-

tion rate of the subject yarn is 12.5 percent, compared with 6.5 percent for the acetate filament yarn.[15] The higher the moisture absorption rate, the more comfortable is the garment. The subject yarn also is stronger than the acetate yarn. The tenacity rate for the subject yarn is 1.7 to 2.3 grams per denier (at standard conditions), compared with 1.2 to 1.4 grams for the acetate yarn.[16]

An official of Unifi, Inc.,[17] one of the petitioners and a U.S. producer of polyester fiber, stated that ***18***

Fabric producers

An official of Symphony Fabrics, a petitioner and a designer and converter of fabrics, stated that the firm uses the subject yarn in the production of unique and highly specialized fabrics for high-end women's apparel.[19] *** An official of Hathaway Textiles, which designs and sells fabrics, ***.[21] The official stated that, in general, both yarns have superior qualities. ***

? ? ? NO FOOTNOTE REFERENCE FOR #20[20] ? ? ?

Dyeing and finishing

An official of Fitness Fabrics Ltd., a fabric converter, ***22**
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An official of Duro Industries, Inc., Fall River, MA, a large fabric dyeing and finishing firm employing approximately 650 people, stated that dyeing and finishing fabric made of cuprammonium rayon filament yarn is a major part of its business and crucial to its survival in the United States.[23] The official stated that the proposed preferential treatment would enable the firm to sell its fabric to companies that produce apparel in the CBTPA and AGOA countries. This official stated that the subject yarn and viscose rayon filament yarn, as well as the fabrics (particularly linings) made from these yarns, are very similar.[24] ***

Balson Hercules, New York, NY, a group of several fabric converters, and a division of Duro Industries, stated that it is the largest supplier of U.S.-made woven linings for menswear and that it supports the proposed preferential treatment.[25] The firm stated that because the CBTPA and the AGOA currently do not grant preferential treatment to apparel made of linings containing foreign yarn, the firm has significantly reduced sales of these linings to producers that have moved their apparel production to the beneficiary countries.

Purchasers

The Marine Corps and the Air Force have used linings made of cuprammonium rayon filament yarn in their dress uniforms for many years.[26] ***[27]*** Officials of

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versity; and Dr. Marjorie Norton, Professor of Clothing and Textiles, Virginia Tech University, telephone interviews by Commission staff, Dec. 6, 7, and 18, 2001, respectively.

[15] These absorption rates are at standard conditions of approximately 70 degrees Fahrenheit and 65-percent relative humidity. See Marjory L. Joseph, Essentials of Textiles, 4th ed. (Holt, Rinehart and Winston, Inc., 1988), pp. 86 and 92.

[16] Tenacity is the amount of force (e.g., in grams) needed to break a yarn, divided by the (unstrained) denier per unit length. See U.S. Customs Service, "Fibers and Yarns," *Customs Bulletin and Decisions,* Dec. 27, 2000, p. 115.

[17] Lee Gordon, Senior Vice-President for Product Development, Unifi Inc., telephone interviews by Commission staff, Dec. 6 and 20, 2001.

[18] *** Telephone interview by Commission staff, Dec. 20, 2001.

[19] Howard Ellis, Converter, Symphony Fabrics, telephone interview by Commission staff, Nov. 30, 2001.

[21] Elizabeth Amoroso, President, Hathaway Textiles, telephone interview by Commission staff, Dec. 10, 2001.

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[22] Amy Caplin, Principal, Fitness Fabrics Ltd., New York, NY, telephone interview by Commission staff, Dec. 7, 2001.

[23] William J. Milowitz, Vice President, Duro Industries, Inc., Fall River, MA, written submission to CITA, Dec. 6, 2001.

[24] William J. Milowitz, Vice President, Duro Industries, Inc., telephone interview by Commission staff, Dec. 10, 2001.

[25] John Iason, Vice President, Balson Hercules, New York, NY, written submission to CITA, Dec. 6, 2001.

[26] The "Berry Amendment," enacted as Title IX of Public Law 102–396, as amended, requires U.S. military procurement of uniforms, among other products, to be manufactured in the United States from U.S.-produced components. A "domestic unavailability determination" was made for the rayon linings because the subject yarn is not produced in the United States. According to an official of the Defense Supply Center of Philadelphia (DSCP), the Berry Amendment also requires the DSCP to evaluate U.S.-made substitutes. John McAndrews, Product Manager, Dress Clothing, DSCP, telephone interview by Commission staff, Sept. 17, 2001. ***

[27] *** telephone interviews by Commission staff, Dec. 10, 2001.

the Defense Supply Center of Philadelphia (DSCP), the agency which procures fabrics for the military, stated that the lining fabric for the military must be durable as military personnel take their jackets on and off often and keep their uniforms for a long period of time.[28] ***

Capacity comparisons

World production capacity for cuprammonium rayon filament yarn currently is approximately 49 million pounds, of which 44 million pounds is in Japan and the remainder in Italy.[29] The current world capacity utilization rate is approximately 75 percent, or almost 37 million pounds. Japan's total production is estimated to be 33 million pounds in 2001. Approximately 60 percent of this amount (almost 20 million pounds in 2001) is for domestic use and the remaining 40 percent is exported to Asia, the European Union (EU), and the United States. According to Itochu International, Japan's exports of the subject yarn to the United States declined from about 3 million pounds in 1999 to 1 million pounds in 2000 and are expected to decline to 500,000 pounds for the full year 2001.

Total U.S. capacity to produce cellulose acetate filament yarn reportedly is expected to be 108 million pounds by the end of 2001.[30] Eastman Chemical Co. and Celanese Ltd. are expected to supply approximately 70 million pounds to the U.S. textile industry in 2001, representing a capacity utilization rate of almost 65 percent.

Views of interested parties

The Commission received written statements from Eastman Chemical Co. and Celanese Ltd., U.S. producers of acetate, and Markbilt, Inc., a U.S. producer of knit fabrics of the subject rayon filament yarn. The two acetate producers indicated their opposition to the proposed preferential treatment, while Markbilt stated its support.[31] The Eastman Chemical submission stated that the U.S. cellulose acetate yarn industry has been declining since the early 1970s due to substitution of other fibers, such as nylon and polyester. U.S. production capacity for acetate yarn declined from 500 million pounds in 1970 to approximately 108 million pounds by the end of 2001. The submission noted that, during this period, DuPont and Avtex closed their cellulose acetate yarn plants and no longer produce the yarn; Celanese closed a plant in Cumberland, MD; and Eastman Chemical reduced its capacity. The submission stated that Celanese and Eastman Chemical will ship only 70 million pounds of acetate yarn to the U.S. textile industry in 2001. The Eastman Chemical submission stated that cuprammonium rayon filament yarns and acetate filament yarns are interchangeable, and that the acetate yarns compete well with the cuprammonium rayon yarns, especially in lining fabrics for men's tailored clothing. The submission indicated that acetate filament yarn is readily available in commercial quantities from two domestic producers and that granting the proposed preferential treatment for the subject rayon yarn would cause harm to the domestic acetate filament yarn industry by reducing demand for acetate yarn.

The Celanese submission stated that the subject rayon filament yarn is a direct substitute in major end uses for acetate filament yarn, and that granting the proposed preferential treatment could directly jeopardize the jobs of 350 of their employees. The submission stated that the company's most recent reduction in employees was due to the shutdown of acetate filament yarn production in its Rock Hill, SC plant. The submission indicated that end users' preference to use the subject rayon yarn and/or fabric instead of acetate filament yarn and/or fabric does not mean that the subject rayon and acetate filament yarns are not substitutable. The submission also stated that many fiber and yarn customers may not be commenting on the petition because of "economic and marketing considerations" and suggested that the Commission and CITA contact neutral parties (e.g., members of academia) for information.

The Markbilt submission stated that it is critical that the fabrics made from the subject yarn be allowed to compete fairly in the market. According to the submission, "recognizing that this yarn product is unavailable from a domestic U.S. pro-

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[28] Gail Vander Voort, Quality Assurance Specialist, and John McAndrews, Product Manager, Dress Clothing, DSCP, telephone interview by Commission staff, Dec. 7, 2001.

[29] Information in this paragraph is from Ryoma Omuro, Itochu International Inc., New York, NY, telephone interview by Commission staff, Dec. 6, 2001.

[30] V.A. Robbins, Jr., Acetate Yarn Business Unit Manager, Fibers Business Organization, Eastman Chemical Co., Kingsport, TN, written submission to the Commission, Dec. 4, 2001.

[31] Written submissions received by the Commission from V.A. Robbins, Jr., Acetate Yarn Business Unit Manager, Fibers Business Organization, Eastman Chemical Co., Dec. 4, 2001; H. Newton Williams, Vice President, Government Relations, Celanese Ltd., Dec. 7, 2001; and Mark L. Woltin, President, Markbilt, Inc., Dec. 18, 2001.

ducer, it seems appropriate that the customers of such a yarn and resulting fabrics be able to enjoy the benefits of the AGOA and CBTPA programs."

Probable economic effect advice [32]

The Commission's analysis shows that granting duty-free and quota-free treatment to apparel made in eligible AGOA or CBTPA beneficiary countries from fabrics made in the United States of the subject yarn, regardless of the source of the yarn, would likely have a negligible adverse effect on U.S. producers of yarns that are made from other artificial fibers (e.g., acetate) and that may compete with the subject yarn. The proposed preferential treatment also would likely have a negligible adverse effect on U.S. firms that make apparel fabrics from these other yarns, but would benefit U.S. firms that make apparel fabrics from the subject yarns. With the enactment of the AGOA and CBTPA in May 2000, imports of apparel made in eligible beneficiary countries from fabrics made in the United States from U.S. acetate filament yarns became eligible to enter free of duty and quota. However, imports of apparel made from the subject rayon filament yarns, which are made only in Japan and Italy, are ineligible for such preferential treatment because the yarns do not meet the requirement that they be made in the United States. The petition, if granted, would re-establish the conditions of parity for the different types of filament yarn prior to enactment of the CBTPA and AGOA in 2000. Imports of apparel made in the beneficiary countries from U.S. fabrics of the subject yarn likely would not capture any market share from acetate apparel, because the two types of apparel, for the most part, do not compete in the same quality or price segments of the apparel market. The price of the subject yarn is more than twice that of the acetate filament yarn. If the proposed preferential treatment were granted, the expected increase in demand for the subject yarn would help maintain this price difference.

The proposed preferential treatment would benefit U.S. producers of fabrics made from the subject rayon filament yarns, and their workers, by spurring demand for U.S. fabrics for use in the production of apparel in eligible AGOA and CBTPA beneficiary countries. The proposed preferential treatment would also benefit U.S. and other apparel firms making apparel in these beneficiary countries from fabrics made of the subject yarns. The expected increase in imports of such apparel from these countries, although likely to be small, would likely displace some imports of similar apparel from other countries. Although imports are believed to account for the majority of the U.S. market for apparel made from the subject rayon filament yarns, there could be a slight adverse effect on any U.S. firms producing similar apparel domestically.

U.S. consumers of apparel articles made from the subject yarn would likely benefit from the proposed preferential treatment because importers and retailers are likely to pass through some of the duty savings to consumers in today's highly competitive retail apparel market.

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman
Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20215

Dear Chairman Shaw:

On behalf of the American Apparel and Footwear Association—the national trade association of the apparel and footwear industries, and their suppliers—I am writing to express strong support for the following bills identified in the subject advisory.

HR 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements.

Comment: AAFA strongly supports this legislation and believes it is long overdue. The Committee for the Implementation of Textile Agreements (CITA) is responsible for far reaching decisions that deeply affect most AAFA members yet its actions are almost always taken behind closed doors with insufficient public scrutiny. This lack of transparency creates a highly unpredictable environment that is often

[32] The Commission's advice is based on information currently available to the Commission.

perceived as being unfair. Recently, CITA has published guidelines to introduce some predictability into its deliberations. While we applaud those limited moves as a step in the right direction, we believe they are insufficient to provide the full accountability necessary for an intergovernmental agency which such responsibilities. Moreover, CITA has at times disregarded its own published guidelines as it has implemented China safeguard and short supply procedures. As a result, AAFA supports bringing CITA under the full jurisdiction of the Administrative Procedures Act.

HR 1121—A bill to repeal section 754 of the Tariff Act of 1930.

Comment: AAFA strongly supports the repeal of the Byrd Amendment. The Byrd legislation was enacted outside of the regular legislative process, by committees that do not enjoy primary jurisdiction over trade issues, and with no opportunity for public comment. Moreover, as has been found by the World Trade Organization (WTO), this provision puts the United States out of compliance with its WTO obligations. In fact, the European Union is currently assessing penalties on U.S. produced clothing in retaliation. Other countries have threatened to do the same. AAFA believes repeal of this abominable provision should be made a priority.

HR 1221, HR 3386, HR 3387, HR 3388, HR 3389, HR 3391, HR 3392, HR 3393, HR 3394, HR 3395, HR 3483, HR 3484, HR 3485, HR 3486, HR 3487, HR 3488, HR 3489, HR 3490, HR 3491—Duty suspensions with respect to various footwear articles. [Note: This does not include HR 3390, which we understand has been withdrawn.]

Comment. AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

HR 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.

Comment: AAFA strongly supports this legislation. Our association supported an earlier version of this legislation in the 108th Congress. This legislation would result in duty reductions for cotton fabrics that are already designated in short supply under various trade preference programs because these fabrics are unavailable in the United States and in the preference countries. Given that finished shirts may enter duty free using these fabrics, we believe it is also appropriate to permit the fabrics themselves to enter duty free. Thus, U.S. domestic manufacturers of shirts will be able to enjoy equal access to those same high quality fabrics that foreign based manufacturers enjoy.

HR 2589/HR 2590—Two bills to extend the temporary suspension of duty on certain filament yarns

Comment. AAFA strongly supports these provisions. AAFA was involved in the development of the original legislation and understand that the conditions that led to successful passage of the original legislation, including the fact that the yarns in question are not produced domestically, continue to exist. Thus, these provisions should be extended.

HR 1230—A bill to extend trade benefits to certain tents imported into the United States.

Comments. AAFA strongly supports this provision. This legislation relates to certain camping tents which are not made in the United States. Moreover, similar but slightly smaller tents, differentiated only by the fact that they are classified as "backpacking" tents, already enjoy duty free treatment. This provision would correct that anomaly.

In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment of such provisions may also facilitate proper findings of short supply for those programs, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

Harodite Industries, Inc.
Danville, Virginia 24540
July 26, 2005

Mr. E. Clay Shaw, Jr., Chairman
Subcommittee on Trade
House Ways and Means Committee

Re: Support for HR 2589 and HR 2590

Concerning HR 2589 and HR 2590 I would like to offer my 100% support for these extension bills to be included in the proposed miscellaneous trade package.

The yarns represented in these two bills are co—polyamide yarns that are manufactured in Switzerland and distributed in the United States by Harodite Industries, Inc. located in Taunton, Ma. The yarns are manufacturing aids that do not become an intregal part of any finished product. The yarn's makeup sets them apart and renders them non-competitive to anything produced in the United States. They contain at least 10% by weight of Nylon 12, which makes them extraordinarily unique.

The various SKU's are formulated differently to obtain various results, but they always contain the 10% of Nylon 12. They are used as separation yarns for the knitting industry to separate knit trim items and panels, that are ultimately sewn together to produce finished garments. The knitting industry in this Country has suffered tremendously since NAFTA and the increase or total elimination of various import quotas. There are currently fewer than half of the knitters that were operating in 1998 left doing business in this Country. Many of those that remain are struggling financially to stay in business. The extension of the duty suspension on these yarns will go a long way to help maintain a stabilizing effect on a struggling U.S. knitting industry. The previous temporary suspension allowed Harodite Industries, Inc. to make price concessions to some major Textile Companies and apparel manufacturers in this Country and help stabilize our own economic situation. An extension of these duty suspensions can allow Harodite and their customers to continue to strengthen their market positions.

The fusible and bonding yarns are used in various industries but primarily by the textile industry. They have many uses such as bonding selvage edges and other edge applications that would normally fray or unravel. The yarns are used to bond the pile to the core threads in the production of Chenille yarns and many other uses and potential uses, they add strength and provide durability to many fabrics and products by acting as a glue when melted without being seen or detected.

At the present there is about $500,000.00 worth of this yarn being imported into the United States per year. This volume has increased from $250,000.00 per year when the original Bills were introduced, a 50% increase. The duty suspension played a large part in this increased demand for our products. The duty rate was 8.5%, if the extension is not granted we will be forced to add the duty rate back to the yarn price which will hurt the stabilization effect that we have realized.

On behalf of all employees at Harodite Industries, Inc. (aprox. 100) the United States knitting industry and all other manufacturers that use these yarns I urge you to allow HR 2589 and HR 2590 to become part of the proposed miscellaneous trade package.

Thank you for your consideration and for allowing me this forum to voice my support for these two bills.

Kindest Regards

Dewey M. Rutledge Jr.
Yarn Division Manager

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
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On behalf of the American Apparel and Footwear Association—the national trade association of the apparel and footwear industries, and their suppliers—I am writing to express strong support for the following bills identified in the subject advisory.

HR 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements.

Comment: AAFA strongly supports this legislation and believes it is long overdue. The Committee for the Implementation of Textile Agreements (CITA) is responsible for far reaching decisions that deeply affect most AAFA members yet its actions are almost always taken behind closed doors with insufficient public scrutiny. This lack of transparency creates a highly unpredictable environment that is often perceived as being unfair. Recently, CITA has published guidelines to introduce some predictability into its deliberations. While we applaud those limited moves as a step in the right direction, we believe they are insufficient to provide the full accountability necessary for an intergovernmental agency which such responsibilities. Moreover, CITA has at times disregarded its own published guidelines as it has implemented China safeguard and short supply procedures. As a result, AAFA supports bringing CITA under the full jurisdiction of the Administrative Procedures Act.

HR 1121—A bill to repeal section 754 of the Tariff Act of 1930.

Comment: AAFA strongly supports the repeal of the Byrd Amendment. The Byrd legislation was enacted outside of the regular legislative process, by committees that do not enjoy primary jurisdiction over trade issues, and with no opportunity for public comment. Moreover, as has been found by the World Trade Organization (WTO), this provision puts the United States out of compliance with its WTO obligations. In fact, the European Union is currently assessing penalties on U.S. produced clothing in retaliation. Other countries have threatened to do the same. AAFA believes repeal of this abominable provision should be made a priority.

HR 1221, HR 3386, HR 3387, HR 3388, HR 3389, HR 3391, HR 3392, HR 3393, HR 3394, HR 3395, HR 3483, HR 3484, HR 3485, HR 3486, HR 3487, HR 3488, HR 3489, HR 3490, HR 3491—Duty suspensions with respect to various footwear articles. [Note: This does not include HR 3390, which we understand has been withdrawn.]

Comment. AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

HR 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.

Comment: AAFA strongly supports this legislation. Our association supported an earlier version of this legislation in the 108th Congress. This legislation would result in duty reductions for cotton fabrics that are already designated in short supply under various trade preference programs because these fabrics are unavailable in the United States and in the preference countries. Given that finished shirts may enter duty free using these fabrics, we believe it is also appropriate to permit the fabrics themselves to enter duty free. Thus, U.S. domestic manufacturers of shirts will be able to enjoy equal access to those same high quality fabrics that foreign based manufacturers enjoy.

HR 2589/HR 2590—Two bills to extend the temporary suspension of duty on certain filament yarns

Comment. AAFA strongly supports these provisions. AAFA was involved in the development of the original legislation and understand that the conditions that led to successful passage of the original legislation, including the fact that the yarns in question are not produced domestically, continue to exist. Thus, these provisions should be extended.

HR 1230—A bill to extend trade benefits to certain tents imported into the United States.

Comments. AAFA strongly supports this provision. This legislation relates to certain camping tents which are not made in the United States. Moreover, similar but slightly smaller tents, differentiated only by the fact that they are classified as "backpacking" tents, already enjoy duty free treatment. This provision would correct that anomaly.

In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment of such provisions may also facilitate proper findings of short supply for those pro-

grams, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

Harodite Industries, Inc.
Danville, Virginia 24540
July 26, 2005

Mr. E. Clay Shaw, Jr.,
Chairman Subcommittee on Trade
House Ways and Means Committee

Re: Support for HR 2589 and HR 2590

Concerning HR 2589 and HR 2590 I would like to offer my 100% support for these extension bills to be included in the proposed miscellaneous trade package.

The yarns represented in these two bills are co—polyamide yarns that are manufactured in Switzerland and distributed in the United States by Harodite Industries, Inc. located in Taunton, Ma. The yarns are manufacturing aids that do not become an intregal part of any finished product. The yarn's makeup sets them apart and renders them non-competitive to anything produced in the United States. They contain at least 10% by weight of Nylon 12, which makes them extraordinarily unique.

The various SKU's are formulated differently to obtain various results, but they always contain the 10% of Nylon 12. They are used as separation yarns for the knitting industry to separate knit trim items and panels, that are ultimately sewn together to produce finished garments. The knitting industry in this Country has suffered tremendously since NAFTA and the increase or total elimination of various import quotas. There are currently fewer than half of the knitters that were operating in 1998 left doing business in this Country. Many of those that remain are struggling financially to stay in business. The extension of the duty suspension on these yarns will go a long way to help maintain a stabilizing effect on a struggling U.S. knitting industry. The previous temporary suspension allowed Harodite Industries, Inc. to make price concessions to some major Textile Companies and apparel manufacturers in this Country and help stabilize our own economic situation. An extension of these duty suspensions can allow Harodite and their customers to continue to strengthen their market positions.

The fusible and bonding yarns are used in various industries but primarily by the textile industry. They have many uses such as bonding selvage edges and other edge applications that would normally fray or unravel. The yarns are used to bond the pile to the core threads in the production of Chenille yarns and many other uses and potential uses, they add strength and provide durability to many fabrics and products by acting as a glue when melted without being seen or detected.

At the present there is about $500,000.00 worth of this yarn being imported into the United States per year. This volume has increased from $250,000.00 per year when the original Bills were introduced, a 50% increase. The duty suspension played a large part in this increased demand for our products. The duty rate was 8.5%, if the extension is not granted we will be forced to add the duty rate back to the yarn price which will hurt the stabilization effect that we have realized.

On behalf of all employees at Harodite Industries, Inc. (aprox. 100) the United States knitting industry and all other manufacturers that use these yarns I urge you to allow HR 2589 and HR 2590 to become part of the proposed miscellaneous trade package.

Thank you for your consideration and for allowing me this forum to voice my support for these two bills.

Kindest Regards

Dewey M. Rutledge Jr.
Yarn Division Manager

Cheraw Yarn Mills
Cheraw, South Carolina 29520
September 2, 2005

The Honorable Clay Shaw
Subcommittee on Trade
House Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw:

I am writing to let you know of our strong opposition to duty suspension legislation for synthetic yarn. Legislation to suspend duties on synthetic yarn was introduced by Congressman Barney Frank and the bill number is H.R. 2591.

Cheraw Yarn Mills, Inc. was founded in 1917 and has had 88 years of consecutive business. Cheraw manufactures some of the synthetic yarns targeted for duty suspension in H.R. 2591 and we are capable of being a meaningful supplier to the domestic market in this product. Passage of this bill would negatively impact our business if this legislation is approved.

The U.S. textile industry is already facing tremendous market pressures due to the lifting of textile and apparel quotas on January 1, 2005, and increased competition from China. If this industry is forced to absorb duty-free competition resulting from measures such as this, many companies will be unable to compete and will be forced to exit the market. I strongly encourage the Ways and Means Committee to deny this request.

Please feel free to contact them directly if you have any questions regarding their interest in this legislation.

Thank you for your consideration of this request.

William M. Malloy, Jr.
Vice President

National Council of Textile Organizations
Washington, DC 20006
August 31, 2005

The Honorable Clay Shaw
Subcommittee on Trade
Committee on House Ways and Means
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

This letter is being written in response to your request for comments on the impact of suspending duties on certain acrylic/modacrylic yarn as proposed in H.R. 2591. The duty on the yarn in question currently stands at 9 percent, but H.R. 2591 proposes to take that duty to zero. The yarn in question is classified under USHTS subheading 5509.31.00, defined as "Yarn (other than sewing thread) of synthetic staple fibers, not put up for retail sale: Containing 85 percent or more by weight of acrylic or modacrylic staple fibers: Single yarn," contained in Category 604. Having analyzed this market, NCTO has come to the conclusion that **suspending or eliminating the 9 percent duty on acrylic/modacrylic yarns would devastate the domestic producers of these products in a short time.**

Domestic Production of Acrylic/Modacrylic Yarn

Given the large amount of acrylic/modacrylic yarn produced in the United States, we were surprised by this particular piece of legislation. The chart below provides production quantities for acrylic and modacrylic yarns for the last few years. The fact that the Census data do not break out single and plied yarn is immaterial since plied yarns are formed by twisting single yarn strands. A producer can sell yarn as a single (5509.31.0000) or a plied (5509.32.0000) according to customer demand.

Census quit reporting sales yarn production with the 2003 data, but most production is sold on the open market. Despite declines in production in recent years, the industry still is able to produce a massive quantity of the subject product. The decline in domestic acrylic/modacrylic yarn production is attributable largely to increased foreign competition. Another obstacle facing producers is the closure of the last acrylic fiber production in the U.S. Producers are forced to pay duty on all acrylic/modacrylic fiber imports, and the yarns made from these fibers do not qualify

for special duty treatment with our free trade agreement partners around the world except in Canada.

Several U.S. companies produce acrylic/modacrylic yarn. In fact, such yarns are the main product line for some domestic spinners, with other companies producing smaller volumes to supplement production of other yarn types. The attached sheet contains information on domestic acrylic/modacrylic yarn producers.

Acrylic/Modacrylic Yarn Imports

Over the last five years, imports to the U.S. of yarn in HTSUS subheading 5509.31 have averaged nearly 8.7 million kilograms per year. The decline in the first half of 2005 is not unprecedented, nor does it indicate a permanent slackening of imported goods. Price fluctuations are normal due to the sometimes volatile nature of raw materials markets for fiber producers, and downstream price effects on spinners.

Canada is the largest foreign supplier of the subject yarns to the U.S. market, with Spain in second place. Imports from Canada have been declining for several years, and the average price of the subject yarn from Canada is above the average world price. However, imports from Spain are growing rapidly, and the price of acrylic/modacrylic single yarns from Spain are below the average world price.

Apparent Domestic Market

The apparent domestic market (ADM) is a measure of the quantity of yarn consumed in the United States each year. ADM is calculated with the following equation: Production—Exports + Imports = Apparent Domestic Market. These data show that imports account for a larger share of the domestic acrylic/modacrylic market each year, even as the total domestic market has declined in most years.

Because Census does not break out single and plied yarns, we include import and export numbers for single and plied yarns made of 85 percent or greater acrylic and modacrylic fibers. The apparent domestic market grew by 4.9 percent in 2004, as reflected by the 3.26 percent increase in domestic production and the 9.33 percent jump in imports.

Acrylic/Modacrylic Yarn Production and Market

Acrylic and modacrylic yarns are used in the apparel, home furnishings, industrial, and craft yarn markets. In apparel, these yarns are used most heavily in sweaters and socks, but the yarns will be found in many other goods as well. In home furnishings, these yarns are used in upholstery fabrics, blankets, and floor coverings. Many pile fabrics and most artificial "fur," whether used in apparel or home furnishing fabrics, are made from acrylic or modacrylic. Finally, acrylic and modacrylic are the predominant fibers used in the fast-growing craft yarn market.

As a manufactured fiber, acrylic and modacrylic have been engineered for many specified uses, depending on the type and variant of the fiber. In addition to the soft hand and luster, acrylic and modacrylic are prized for their colorfastness. Color can be imparted to the fiber in the extrusion process (solution dyed) or to the finished yarn. Both methods are commonly used. The acrylic/modacrylic yarn dyeing industry is modern, clean, and highly-efficient. Yarn can be package or skein dyed, depending on the final use and customer demand.

Acrylic/modacrylic yarn sold to apparel and home furnishing fabric producers is typically sold on cones, and is widely available in solution dyed, yarn dyed, or greige form, depending on the customers order. Acrylic/modacrylic yarns sold into the craft yarn market are typically in skeins.

Acrylic and modacrylic staple fiber can be sold in any length desired by the spinner. Short staple fiber can be spun by itself or blended with cotton or any other fiber of similar length. Long staple fiber can be spun by itself or blended with other long staple fibers, such as wool. The machinery used to manufacture acrylic/modacrylic yarn would be the same as with any other fiber, but the machinery would have to be calibrated to account for the fiber length.

While acrylic and modacrylic fibers have the same properties for spinning purposes, there are important differences between these fibers. Acrylic fibers are thermoplastic, allowing producers to heat-set for wrinkle resistance or to set permanent pleats. Acrylic has low moisture absorbency, is resistant to ultraviolet rays and many chemicals and fumes, but is not as flame resistant as many other manufactured fibers. Acrylic fiber is used for floor coverings, blankets, and apparel. Modacrylic yarns share many of the properties as acrylic, but have superior resistance to chemicals and combustion and are more heat sensitive. Modacrylic yarns are found mostly in pile fabrics, flame-retardant garments, draperies and carpet.

Impact of Suspending Duties

U.S. producers of acrylic and modacrylic yarns do not merely compete against one another, but rather they compete on a global basis. The industry operates in a truly free market, with import duties the only protection available. Domestic acrylic/modacrylic spinners are lean and highly-efficient, but most operate on razor-thin margins in order to be price competitive with foreign producers. Yarn producers in many countries benefit from unfair trade advantages conferred by their respective governments, including subsidies, undue restrictions on import competition, artificially devalued currencies, etc. **Suspension or elimination of the 9 percent import duty on these yarns would devastate the industry in short order.** Most current acrylic/modacrylic yarn production, particularly the so-called commodity yarns, would be overrun by foreign suppliers in a few years. As noted above, domestic spinners of acrylic/modacrylic must pay import duties on the fiber they spin, and they must pay import duties when shipping this yarn abroad, including to most of our free trade partners.

We appreciate the opportunity to provide these comments, and we hope the information provided is helpful in this evaluation. If we can provide any further information, please do not hesitate to let us know.

Cass Johnson
President

Domestic Acrylic Yarn Producers

(* denotes an NCTO member)

The following list includes only producers of yarn for sale on the open market, but no vertically integrated companies producing yarn for internal consumption. There may be other producers not included in this list, but we believe we have accounted for almost all domestic production with the list below.

*Amital Spinning Corporation
New Bern, NC 28562–6924

*Brodnax Mills
New York, NY 10018

*National Spinning
Washington, NC 27889

*Patrick Yarn Mills
Kings Mountain, NC 28086

*Pharr Yarns
McAdenville, NC 28101

Pisgah Yarn and Dyeing Co., Inc.
Old Fort, NC 28762

*Richmond Yarns Inc.
Rockingham, NC 28380

*Tuscarora Yarns, Inc.
Mount Pleasant, NC 28124

Quaker Fabric Corporation of Fall River
Fall River, Massachusetts 02721
August 30, 2005

The Honorable Clay Shaw
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw:

I am writing to let you know of our company's support of duty suspension legislation for acrylic fiber. Legislation to suspend duties on acrylic fiber was introduced by Congressman Howard Coble on April 8, 2005, and the bill numbers are H.R. 1534, H.R. 1535 and H.R. 1536. In addition, Congressman Barney Frank introduced H.R. 2591 to suspend duties on certain acrylic yarns, at our request, and passage of this additional bill is also very important to us.

Earlier this year, Solutia Inc. announced its departure from the acrylic fiber market as part of a broader reorganization plan. Solutia was the last remaining reliable

producer of acrylic fiber in the U.S. and its exit from the market was a serious blow to U.S. textile manufacturers who use these fibers. In 2005, the U.S. market demand for acrylic fiber is estimated to be 198 million pounds.

The U.S. textile industry is already facing tremendous market pressures due to the lifting of textile and apparel quotas on January 1, 2005, and increased competition from China. If our industry is forced to absorb an eight percent average duty on imported acrylic fibers, many of us will be unable to compete and will be forced to exit the market for our product lines that utilize these fibers. If this happens, dozens of plants and thousands of workers across the country will be adversely affected.

We understand that Congress has provided the duty suspension process to address situations such as this, and we strongly encourage a favorable report by the Committee on these bills.

Please do not hesitate to contact me if you have any questions or need additional information on this request.

Thank you for your consideration of this request.

Sincerely,

Larry A. Liebenow
President and CEO

Richmond Yarns, Inc.
Rockingham, North Carolina 28380
September 2, 2005

The Honorable Clay Shaw
Subcommittee on Trade
House Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw:

I am writing to let you know of Richmond Yarns Inc.'s strong opposition to duty suspension legislation for synthetic Yarn. Legislation to suspend duties on synthetic yarn was introduced by Congressman Barney Frank and the bill number is H.R. 2591.

Richmond Yarns is a Yarn Manufacturer that exclusively produces Synthetic Yarns. Our company is located in Ellerbe, NC and employs 250 people. We are very capable of supplying the domestic market; Our Company has the capacity to produce 13,000,000 pounds per year of synthetic yarn (acrylic, rayon, polyester) that H.R. 2591 targets for duty suspension.

Our company has already sustained tremendous pressure due to the lifting of Textile and Apparel quotas on January 1, 2005. If we are forced to absorb duty-free competition resulting from measures such as this, it will make it impossible for our company to compete and force us to leave the market, which will result in the loss of 250 jobs.

I understand that Congress has provided duty suspension process to address situations where domestic capacity does not exist. However, based on the production capacity of our company on this product category, I do not believe this duty suspension merits approval, and Richmond Yarns, Inc and its 250 employees strongly encourages the Ways and Means Committee to deny this request.

If you have any questions about our Company and its operation you can contact me at 910–652–4978.

Thank you for your consideration of this request.

Kenneth L. Goodman, Jr.
President

Motor & Equipment Manufacturers Association
Washington, DC 20036
August 29, 2005

The Hon. E. Clay Shaw, Jr. (FL–22)
Chairman
Subcommittee on Trade
Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

These comments regarding H.R. 2596, H.R. 2597, and H.R. 2598 are submitted on behalf of the Motor & Equipment Manufacturers Association ("MEMA"). MEMA exclusively serves the aftermarket and original equipment automotive and heavy-duty product manufacturing industry. MEMA supports its members through its three market segment associations: Automotive Aftermarket Suppliers Association (AASA), Heavy Duty Manufacturers Association (HDMA) and Original Equipment Suppliers Association (OESA). Among MEMA's members are U.S. companies that manufacture in the United States the products at issue in the three bills.

H.R. 2596 and H.R. 2598 are bills to temporarily suspend the duties on certain steel leaf spring leaves, and H.R. 2597 is a bill to temporarily suspend the duty on suspension system stabilizer bars. MEMA believes that these bills, and other similar bills regarding steel products, are indicative of the untenable steel situation that continues to exist in the United States.

U.S. steel consumers (that is, U.S. companies that purchase steel and use it to manufacture automotive and heavy-duty products) cannot obtain the steel they need in a timely manner and at a sustainable price. This untenable steel situation is caused by a variety of factors, including unnecessary antidumping and countervailing duties and the inability (or unwillingness) of domestic steel producers to meet the needs of U.S. steel consumers. As a result, the ultimate customers of steel products are looking offshore to satisfy their needs, but this offshore sourcing is hurting domestic production of automotive and heavy duty products.

In recent years the automotive supplier industry (including heavy duty product manufacturers), comprised of eight hundred major suppliers, has experienced declining profits, lay-offs and bankruptcies.[1] These companies collectively employ more than 700,000 domestic employees (approximately seven times the domestic employees employed by the U.S. steel industry).[2] These bankruptcies, lay-offs and declining profits by the automotive supplier industry are reflected in the overall decline in the Dow Jones Auto Parts index since December 31, 2003.[3] By contrast, the Dow Jones Steel index has increased by more than 70% throughout 2004 and into 2005.[4]

The introduction of these three bills (and others like it) is also evidence of the increased import competition in automotive supply products, due in part to the ability of offshore producers to obtain quality steel in a timely fashion and at an economical price. Automotive supply imports increased by more than 12% in 2004 (through November) and the automotive supplier industry has a trade imbalance that has increased by more than 270% from 1998 through November 2004.[5]

Although MEMA does not take any position on the proposed bills, this letter is intended to convey to Congress the severity of the steel situation that continues to plague U.S. steel consumers. When this situation induces the ultimate customers of steel products to source offshore instead of domestically, Congress needs to act quickly to implement a solution that will allow for sustainable manufacturing in the United States.

Sincerely,

Nancy A. Noonan

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[1] *See* Brian C. Becker and Kevin A. Hassett, *The Steel Industry: An Automotive Supplier Perspective,* (Feb. 2005) at 16. Available at: http://www.citac.info/steeltaskforce/attach/MEMA—Study—May—2005.pdf.
[2] *See id.* at 14.
[3] *Id.* at 19.
[4] *Id.*
[5] *Id.* at 14.

Motor & Equipment Manufacturers Association
Washington, DC 20036
August 29, 2005

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[5] *Id.* at 14.

Motor & Equipment Manufacturers Association
Washington, DC 20036
August 29, 2005

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[2] *See id.* at 14.
[3] *id.* at 19.
[4] *Id.*
[5] *Id.* at 14.

MT Picture Display Corp. of America
Troy, Ohio 45373
September 2, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Subcommittee on Trade
Committee on Ways and Means
Washington, DC 20515

Dear Chairman Shaw:

On behalf of MT Picture Display Corporation of America (MTPDA), in Troy, Ohio, I am writing in support of H.R. 2624, a bill, introduced by Congressman John Boehner (R–OH), to suspend temporarily the duties on a number of components for colored picture tubes.

MTPDA is a joint venture between Panasonic and Toshiba to manufacture very large size, and some smaller, CRTs. It is located in Miami County Ohio and, with over 500 employees, is one of the largest private employers in the county. Since its ground breaking in 1988 the factory has invested over $490 million in the facility. With the closing of U.S. colored picture tubes factories owned by Mitsubishi, Zenith, Thomson, Philips, Toshiba, and Hitachi, MTPDA is the last original equipment (OEM) CRT supplier in the United States. Only Sony continues to make CRTs, for its own domestic use, in the United States. In fact, with the closing of the last CRT glass-making plant last year, we are part of only a handful of companies still making television components in the United States.

Currently we produce widescreen (16:9) and conventional (4:3) curved and flat CRTs in sizes ranging from 30" to 36". We also produce 7" projection TV tubes for a variety of customers, including Panasonic, Hitachi, Sanyo, Sharp, Mitsubishi, JVC, and Sony.

H.R. 2624 covers 15 imported components that no longer are manufactured in the United States. The components are glass panels and funnels, electron guns and aperture masks for various model CRTs. The specific components are:

- 30" widescreen Pure Flat glass panel
- 30" widescreen Pure Flat glass funnel
- 32" curved glass panel 32" curved glass funnel
- 32" Pure Flat glass panel
- 32" Pure Flat glass funnel
- 34" widescreen Pure Flat glass panel
- 34" widescreen Pure Flat glass funnel
- 36" curved glass panel 36" curved glass funnel
- Glass envelope for projection CRT
- Aluminum-killed steel aperture mask
- Invar steel aperture mask
- CRT electron gun
- Projection tube electron gun

The bill proposes a three-year duty suspension for all the above components, except for the 32" flat glass panel, which would be reduced to 3.0%. It is estimated that the combined one-year savings to the company for the elimination or reduction of these duties would be $4,965,000.

MTPDA's primary competitor is not from Asia. Instead, the primary competitors for our factory are the Mexican CRT factories of Samsung, Thomson and LG–Philips—the last two companies had previously manufactured CRTs in the United States. The suspension of duties on the five CRT components—glass panels, funnels and envelopes; electron guns; and aperture masks—will put MTPDA on the same playing field as our competitors in Mexico, where duties on these same imported components are 0%.

Unfortunately, with the recent closing of Techneglas in Ohio, there are no manufacturers in the United States for picture tube glass, the electron guns or the specialty steel needed to manufacture aperture masks. Thus, the 5.4% U.S. duties on these items, once imposed to protect the domestic television industry, now simply hurt what's left of the domestic television industry.

Sales revenues for MTPDA have dropped dramatically since 2000. This year, factory sales are only 70% compared to budget, and will be about 40% of what we sold in 2000. Industry-wide, CRT sales are running at only 60% of last year's results. Therefore, the elimination (and in one case, reduction) of these duties on our imported components will lower our costs and put MTPDA on a more level playing field and competitive basis with manufacturers in Mexico. We appreciate your con-

sideration of our request and we hope the Ways and Means Committee will support H.R. 2624, and that it can be enacted this year as part of a miscellaneous tariff and trade bill.

Steve Lammers
General Manager, Operations

Sony Electronics Inc.
Park Ridge, New Jersey 07656
September 2, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Ways and Means Subcommittee on Trade
1236 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw:

On behalf of the Sony Electronics Inc. American Video Glass Company ("AV"), the last remaining producer of television cathode ray tube ("CRT") glass in the United States, I thank you for the opportunity to submit comments in support of the captioned duty suspension bill. This legislation would suspend temporarily the duty on various imported CRT components, mainly video glass products.

AV has serious reservations about the passage of H.R. 2624 because our AV manufacturing plant located in Western Pennsylvania currently produces or can produce the same types of CRT glass funnels and front panels covered by this bill. Duty free status for these CRT glass components would create incentives for the procurement of foreign made CRT glass and erode the domestic market for AV's products. AV stands ready to fulfill the needs of domestic CRT makers who would otherwise require imported CRT glass.

AV does not take a position as to merchandise covered in this bill other than funnels and panels.

Should you have any questions about our opposition to the portions of this legislation that cover CRT glass panels and funnels, please do not hesitate to contact me.

David Newman
Senior Counsel

Association of Food Industries, Inc.
Neptune, New Jersey 07753
September 2, 2005

The Honorable E. Clay Shaw, Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1104 Longworth House Office Building
Washington, DC 20515–6354

Dear Chairman Shaw:

These comments are submitted on behalf of the Association of Food Industries, Inc. (AFI) in support of H.R. 2816, the "Fair Trade In Pouch Tuna Act of 2005." This bill would provide duty-free treatment for certain imports of prepared or preserved tuna from members of the Association of Southeast Asian Nations (ASEAN). AFI is a trade association composed of approximately 200 U.S. member-companies that import a wide variety of food products from around the world, including prepared or preserved tuna from ASEAN members.

AFI agrees with the findings set forth in the text of H.R. 2816. Specifically, as U.S. importers and distributors of the product, member-companies of AFI can testify to that fact that the provision for so-called "pouch tuna" embodied in the extension of the Andean Trade Preferences Act has placed imports from ASEAN members at a significant competitive disadvantage. Approval of this bill would equalize competitive treatment of this product, and provides the United States with a cost-effective means for providing economic assistance to important ASEAN allies that were economically devastated by the December 2004 tsunami.

For the reason set forth herein and in the text of H.R. 2816, AFI supports approval of this bill.

Jeffrey S. Levin
Counsel to the Association of Food Industries, Inc.

Statement of Jeff Watters, Del Monte Foods/StarKist Brands, Pittsburgh, Pennsylvania

This statement is submitted by StarKist Seafood in response to the request for comments on the Fair Trade in Pouch Tuna Act of 2005, H.R. 2816. StarKist Seafood is the U.S. market leading producer of canned and pouched tuna, and produces the majority of its products in American Samoa. For the reasons set forth below, StarKist Seafood opposes the duty relief measures on pouch tuna processed by Association of Southeast Asian Nations (ASEAN) countries proposed by the Act.

Despite assertions in the Act to the contrary, ASEAN nations are not at a competitive disadvantage to Andean nations.

- The Fair Trade in Pouch Tuna Act of 2005 ("Act") asserts that the economies of the ASEAN nations (Brunei, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand and Vietnam) are at a competitive disadvantage to the beneficiary nations of the Andean Trade Promotion and Drug Eradication Act (Ecuador, Colombia, Bolivia, and Peru) due to the duty-free status of pouched tuna imports into the U.S. from the Andean nations.
- However, as the May 2002 *USITC Fact Sheet on the Likely Impact of U.S. Tariff Modification for Tuna Imported Countries from ATPA Beneficiaries indicated, "ASEAN countries have long been the largest foreign suppliers of tuna to the U.S. market (indeed, to the world). Their dominant position is due mainly to low labor costs, stable business relationships with developed countries, a long history of canning food products, and an abundance of tuna resources in the western tropical Pacific."*
- ASEAN nation wage rates are significantly lower than those of tuna exporting Andean nations. Ecuador's wages for cannery workers are 15% higher than the Philippines, 17% higher than Thailand's, 114% higher than Malaysia's, and 380% higher than Indonesia's and Vietnam's. Clearly, Ecuador's lower rate of duty for pouch tuna exports is more than offset by far lower wage rates in Southeast Asia.

The United States is currently in negotiations with Thailand toward a free trade agreement.

- In October 2003, President Bush announced his intent to enter into Free Trade Agreement (FTA) negotiations with Thailand in accordance with legislative procedures specified by Congress. Those negotiations are ongoing and tariffs on tuna imports are under active consideration.
- Unilaterally granting duty-free access to ASEAN pouch tuna will significantly diminish the leverage of U.S. FTA negotiators.

Any significant increase in U.S. tuna imports from ASEAN nations will have a devastating effect on the economy of American Samoa.

- Currently StarKist Seafood produces the majority of its tuna products in American Samoa. One other tuna processor, Chicken of the Sea, also has tuna manufacturing facilities in American Samoa.
- The United States territory of American Samoa lays 2,300 miles southwest of Hawaii, covers a land area of 76 square miles, has a population of less than 70,000, and a per capita income of $4,300 per year.
- The U.S. tuna industry provides 88% of the private sector employment in American Samoa.
- The U.S. processors on American Samoa face significant wage disparities when compared with major tuna exporter countries (including ASEAN).
- Imports from Andean nations, due to their Eastern Tropical Pacific (ETP) fish source, do not compete with those from American Samoa. The ETP is a fully utilized, limited fishery and is much smaller than the Western Tropical Pacific (WTP) which supplies the raw fish to Samoa and the ASEAN countries.
- As a result of fish sourcing from the vast resource in the WTP, tuna imports from ASEAN nations directly compete with the production in American Samoa.

- A decrease in production or departure of one or both of the two canneries in American Samoa could devastate the local economy resulting in massive layoffs and insurmountable financial difficulties for American Samoa.

Conclusion:

In closing, StarKist Seafoods opposes the Fair Trade in Pouch Tuna Act of 2005, H.R. 2816.

Spalding, A Division of Russell Corporation
Springfield, Massachusetts 01104
September 1, 2005

The Honorable Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member
Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

In response to the Subcommittee's request for written Comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals, I am writing to you in support of an important bill; H.R. 2817. This bill would suspend temporarily the duty on composite (neither leather, rubber, nor synthetic) basketballs (provided for in subheading 9506.62.80), thereby helping Spalding to reduce costs incurred as a result of the high duty rates assessed on these products. Spalding is located in Springfield, Massachusetts and imports composite basketballs due to the high demand here in the U.s. and the lack of domestic production.

Currently, composite basketballs (neither leather, rubber, nor synthetic) imported into the United States face 4.8% in duties. Spalding imports approximately $10.6 million of composite basketballs (neither leather, rubber, nor synthetic) annually and we pay approximately $508,000 in duties each year. There currently are no U.S. companies manufacturing composite basketballs that are made neither of leather, rubber, nor synthetic.

Given that the high duties faced by Spalding are not being justifiably assessed to protect a U.S. industry, we hope that the Subcommittee will favorably report this bill as part of the miscellaneous trade package in the coming months. Also, the bill is designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me if you have any questions on these provisions or require additional information.

Scott H. Creelman
Chief Executive Officer, Spalding Group

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its **support** for the following bills:

H.R. 3308—To suspend temporarily the duty on erasers.
H.R. 3309—To suspend temporarily the duty on nail clippers.
H.R. 3310—To suspend temporarily the duty on artificial flowers.
H.R. 3311—To suspend temporarily the duty on electrically operated pencil sharpeners.
H.R. 2477—To suspend, temporarily the duty on bicycle speedometers.
H.R. 2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-angle reflectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.
H.R. 2479—To suspend temporarily the duty on unicycles.
H.R. 2556—To suspend temporarily the duty on air freshener electric devices with warmer units.
H.R. 2557—To suspend temporarily the duty on air freshener electric devices.
H.R. 2817—To suspend temporarily the duty on certain basketballs.
H.R. 2818—To suspend temporarily the duty on certain leather basketballs.
H.R. 2819—To suspend temporarily the duty on certain rubber basketballs.
H.R. 2820—To suspend temporarily the duty on certain volleyballs.
H.R. 2821—To suspend temporarily the duty on certain synthetic basketballs.
H.R. 3033—To (1) provide duty-free treatment for certain educational devices; and (2) extend such treatment through December 31, 2008.
H.R. 3112—To suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
H.R. 3113—To suspend temporarily the duty on certain cups, with or without saucers, of porcelain or china.
H.R. 3114—To suspend temporarily the duty on certain flags.
H.R. 3115—To suspend temporarily the duty on certain clocks.
H.R. 3116—To suspend temporarily the duty on certain glass articles.
H.R. 3117—To suspend temporarily the duty on certain glass articles of lead crystal.
H.R. 3118—To suspend temporarily the duty on certain music boxes.
H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
H.R. 3389—To suspend temporarily the duty on certain footwear for girls.
H.R. 3391—To suspend temporarily the duty on certain athletic footwear.
H.R. 3392—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—To suspend temporarily the duty on certain work footwear.
H.R. 3394—To suspend temporarily the duty on certain work footwear.
H.R. 3395—To suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.

H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

Spalding, A Division of Russell Corporation
Springfield, Massachusetts 01104
September 1, 2005

The Honorable Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member
Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

In response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals, I am writing to you in support of an important bill; H.R. 2818. This bill would suspend temporarily the duty on leather basketballs (provided for in subheading 9506.62.80). thereby helping Spalding to reduce costs incurred as a result of the high duty rates assessed on these products. Spalding is located in Springfield, Massachusetts and imports leather basketballs due to the high demand here in the U.S. and the lack of domestic production.

Currently, leather basketballs imported into the United States face 4.8% in duties. Spalding imports approximately $786,000 of leather basketballs annually, and we pay approximately $37,700 each year. There currently are no U.S. companies manufacturing leather basketballs.

Given that the high duties faced by Spalding are not being justifiably assessed to protect a U.S. industry, we hope that the Subcommittee will favorably report this bill as part of the miscellaneous trade package in the coming months. Also, the bill is designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me if you have any questions on these provisions or require additional information.

Scott H. Creelman
Chief Executive Officer, Spalding Group

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its support for the following bills:

H.R. 3308—To suspend temporarily the duty on erasers.
H.R. 3309—To suspend temporarily the duty on nail clippers.
H.R. 3310—To suspend temporarily the duty on artificial flowers.
H.R. 3311—To suspend temporarily the duty on electrically operated pencil sharpeners.
H.R. 2477—To suspend, temporarily the duty on bicycle speedometers.
H.R. 2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-angle reflectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.
H.R. 2479—To suspend temporarily the duty on unicycles.
H.R. 2556—To suspend temporarily the duty on air freshener electric devices with warmer units.
H.R. 2557—To suspend temporarily the duty on air freshener electric devices.
H.R. 2817—To suspend temporarily the duty on certain basketballs.
H.R. 2818—To suspend temporarily the duty on certain leather basketballs.
H.R. 2819—To suspend temporarily the duty on certain rubber basketballs.
H.R. 2820—To suspend temporarily the duty on certain volleyballs.
H.R. 2821—To suspend temporarily the duty on certain synthetic basketballs.
H.R. 3033—To (1) provide duty-free treatment for certain educational devices; and (2) extend such treatment through December 31, 2008.
H.R. 3112—To suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
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H.R. 3116—To suspend temporarily the duty on certain glass articles.
H.R. 3117—To suspend temporarily the duty on certain glass articles of lead crystal.
H.R. 3118—To suspend temporarily the duty on certain music boxes.
H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
H.R. 3389—To suspend temporarily the duty on certain footwear for girls.
H.R. 3391—To suspend temporarily the duty on certain athletic footwear.
H.R. 3392—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—To suspend temporarily the duty on certain work footwear.
H.R. 3394—To suspend temporarily the duty on certain work footwear.
H.R. 3395—To suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.

H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

Spalding, A Division of Russell Corporation
Springfield, Massachusetts 01104
September 1, 2005

The Honorable Clay Shaw
Chairman
Subcommittee on Trade
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1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member
Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

hl response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals, I am writing to you in support of an important bill; H.R. 2819. This bill would suspend temporarily the duty on rubber basketballs (provided for in subheading 9506.62.80), thereby helping Spalding to reduce costs incurred as a result of the high duty rates assessed on these products. Spalding is located in Springfield, Massachusetts and imports rubber basketballs due to the high demand here in the U.S. and the lack of domestic production.

Currently, rubber basketballs imported into the United States face 4.8% in duties. Spalding imports approximately $5.4 million of rubber basketballs annually, and we pay approximately $260,000 each year in duties. There currently are no U.S. companies manufacturing rubber basketballs.

Given that the high duties faced by Spalding are not being justifiably assessed to protect a U.S. industry, we hope that the Subcommittee will favorably report this bill as part of the miscellaneous trade package in the coming months. Also, the bill is designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me if you have any questions on these provisions or require additional information.

Scott H. Creelman
Chief Executive Officer, Spalding Group

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its support for the following bills:

H.R. 3308—To suspend temporarily the duty on erasers.
H.R. 3309—To suspend temporarily the duty on nail clippers.
H.R. 3310—To suspend temporarily the duty on artificial flowers.
H.R. 3311—To suspend temporarily the duty on electrically operated pencil sharpeners.
H.R. 2477—To suspend, temporarily the duty on bicycle speedometers.
H.R. 2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-angle reflectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.
H.R. 2479—To suspend temporarily the duty on unicycles.
H.R. 2556—To suspend temporarily the duty on air freshener electric devices with warmer units.
H.R. 2557—To suspend temporarily the duty on air freshener electric devices.
H.R. 2817—To suspend temporarily the duty on certain basketballs.
H.R. 2818—To suspend temporarily the duty on certain leather basketballs.
H.R. 2819—To suspend temporarily the duty on certain rubber basketballs.
H.R. 2820—To suspend temporarily the duty on certain volleyballs.
H.R. 2821—To suspend temporarily the duty on certain synthetic basketballs.
H.R. 3033—To (1) provide duty-free treatment for certain educational devices; and (2) extend such treatment through December 31, 2008.
H.R. 3112—To suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
H.R. 3113—To suspend temporarily the duty on certain cups, with or without saucers, of porcelain or china.
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H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
H.R. 3389—To suspend temporarily the duty on certain footwear for girls.
H.R. 3391—To suspend temporarily the duty on certain athletic footwear.
H.R. 3392—To suspend temporarily the duty on certain footwear with open toes or heels.
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H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.

H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

Spalding, A Division of Russell Corporation
Springfield, Massachusetts, 01104
September 1, 2005

The Honorable Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
11 04 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member
Subcommittee on Trade
Committee on Ways and Means
11 06 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

In response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals, I am writing to you in support of an important bill; H.R. 2820. This bill would suspend temporarily the duty on certain volleyballs (provided for in subheading 9506.62.80 of 9902.95.10) thereby helping Spalding to reduce costs incurred as a result of the high duty rates assessed on these products. Spalding is located in Springfield— Massachusetts and imports volleyballs due to the high demand here in the U.S. and the lack of domestic production..

Currently, volleyballs imported into the United States face 4.8% in duties. Spalding imports approximately $540,000 of volleyballs annually and we pay approximately $30,000 in duties each year. There currently are no U.S. companies manufacturing volleyballs.

Given that the high duties faced by Spalding are not being justifiably assessed to protect a U.S. industry, we hope that the Subcommittee will favorably report this bill as part of the miscellaneous trade package in the coming months. Also, the bill is designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me if you have any questions on these provisions or require additional information.

Scott H. Creelman
Chief Executive Officer, Spalding Group

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its support for the following bills:

H.R. 3308—To suspend temporarily the duty on erasers.
H.R. 3309—To suspend temporarily the duty on nail clippers.
H.R. 3310—To suspend temporarily the duty on artificial flowers.
H.R. 3311—To suspend temporarily the duty on electrically operated pencil sharpeners.
H.R. 2477—To suspend, temporarily the duty on bicycle speedometers.
H.R. 2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-angle reflectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.
H.R. 2479—To suspend temporarily the duty on unicycles.
H.R. 2556—To suspend temporarily the duty on air freshener electric devices with warmer units.
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H.R. 2818—To suspend temporarily the duty on certain leather basketballs.
H.R. 2819—To suspend temporarily the duty on certain rubber basketballs.
H.R. 2820—To suspend temporarily the duty on certain volleyballs.
H.R. 2821—To suspend temporarily the duty on certain synthetic basketballs.
H.R. 3033—To (1) provide duty-free treatment for certain educational devices; and (2) extend such treatment through December 31, 2008.
H.R. 3112—To suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
H.R. 3113—To suspend temporarily the duty on certain cups, with or without saucers, of porcelain or china.
H.R. 3114—To suspend temporarily the duty on certain flags.
H.R. 3115—To suspend temporarily the duty on certain clocks.
H.R. 3116—To suspend temporarily the duty on certain glass articles.
H.R. 3117—To suspend temporarily the duty on certain glass articles of lead crystal.
H.R. 3118—To suspend temporarily the duty on certain music boxes.
H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
H.R. 3389—To suspend temporarily the duty on certain footwear for girls.
H.R. 3391—To suspend temporarily the duty on certain athletic footwear.
H.R. 3392—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—To suspend temporarily the duty on certain work footwear.
H.R. 3394—To suspend temporarily the duty on certain work footwear.
H.R. 3395—To suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.

H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

Spalding, A Division of Russell Corporation
Springfield, Massachusetts 01104
September 1, 2005

The Honorable Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member
Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

In response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals, I am writing to you in support of an important bill; H.R. 2821. This bill would suspend temporarily the duty on synthetic basketballs (provided for in subheading 9506.62.80), thereby helping Spalding to reduce costs incurred as a result of the high duty rates assessed on these products. Spalding is located in Springfield, Massachusetts and imports synthetic basketballs due to the high demand here in the U.S. and the lack of domestic production.

Currently, synthetic basketballs imported into the United States face 4.8% in duties. Spalding imports approximately $1.2 million of synthetic basketballs annually, and we pay approximately $57,600 in duties each year. There currently are no U.S. companies manufacturing synthetic basketballs.

Given that the high duties faced by Spalding are not being justifiably assessed to protect a U.S. industry, we hope that the Subcommittee will favorably report this bill as part of the miscellaneous trade package in the coming months. Also, the bill is designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me if you have any questions on these provisions or require additional information.

Scott H. Creelman
Chief Executive Officer, Spalding Group

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515
The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its support for the following bills:

H.R. 3308—To suspend temporarily the duty on erasers.
H.R. 3309—To suspend temporarily the duty on nail clippers.
H.R. 3310—To suspend temporarily the duty on artificial flowers.
H.R. 3311—To suspend temporarily the duty on electrically operated pencil sharpeners.
H.R. 2477—To suspend, temporarily the duty on bicycle speedometers.
H.R. 2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-angle reflectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.
H.R. 2479—To suspend temporarily the duty on unicycles.
H.R. 2556—To suspend temporarily the duty on air freshener electric devices with warmer units.
H.R. 2557—To suspend temporarily the duty on air freshener electric devices.
H.R. 2817—To suspend temporarily the duty on certain basketballs.
H.R. 2818—To suspend temporarily the duty on certain leather basketballs.
H.R. 2819—To suspend temporarily the duty on certain rubber basketballs.
H.R. 2820—To suspend temporarily the duty on certain volleyballs.
H.R. 2821—To suspend temporarily the duty on certain synthetic basketballs.
H.R. 3033—To (1) provide duty-free treatment for certain educational devices; and (2) extend such treatment through December 31, 2008.
H.R. 3112—To suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
H.R. 3113—To suspend temporarily the duty on certain cups, with or without saucers, of porcelain or china.
H.R. 3114—To suspend temporarily the duty on certain flags.
H.R. 3115—To suspend temporarily the duty on certain clocks.
H.R. 3116—To suspend temporarily the duty on certain glass articles.
H.R. 3117—To suspend temporarily the duty on certain glass articles of lead crystal.
H.R. 3118—To suspend temporarily the duty on certain music boxes.
H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
H.R. 3389—To suspend temporarily the duty on certain footwear for girls.
H.R. 3391—To suspend temporarily the duty on certain athletic footwear.
H.R. 3392—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—To suspend temporarily the duty on certain work footwear.
H.R. 3394—To suspend temporarily the duty on certain work footwear.
H.R. 3395—To suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.

H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

Chemtura
Middlebury, Connecticut 06749
September 2, 2005

David Kavanaugh
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Kavanaugh:

Re: H.R. 2833

Chemtura is strongly opposed to the proposal to temporarily remove duties on the following product:

- 2 (3H)-benzothiazolethione sodium salt (CAS 2492–26–4) (Chemtura's product name is Sodium MBT) as requested in HR 2833

Chemtura manufactures approximately 24 million pounds per year in our Geismar, Louisiana plant. This product is an intermediate and is chemically converted into a family of rubber chemical Accelerators (Chemtura trade name Thiazoles and Sulfenamides) in the U.S.

Elimination of this duty into the U.S. would unfairly advantage European manufacturers, while Chemtura would be disadvantaged by being required to pay duties when importing into Europe. The EU import duty is 6.5 %, the same as the current U.S. rate when importing this material. Further, Chemtura will lose significant market share, resulting in reduced production and employment at the Geismar facility. In addition Chemtura is required by new regulations to invest significant funds for environmental protection, where some of our competitors in other regions are not being held to the same standards. If Chemtura faces lower priced competition, it may not be able to make those investments and will be forced to halt production.

The proposal to reduce the duties is being made by a major European based competitor of Chemtura, and is clearly designed to put Chemtura at a competitive disadvantage in the global marketplace.

Sincerely,

Elizabeth Thomasino
Manager, Imports and Customs

Lloyd N. Moon
Vice President, Government and Industry Affairs

Spalding, A Division of Russell Corporation
Springfield, Massachusetts 01104
September 1, 2005

The Honorable Clay Shaw
Chairman
Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member
Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

In response to the Subcommittee's request for written comments from parties interested in technical corrections to U,S. trade laws and miscellaneous duty suspension proposals, I am writing to you in support of an important bill; H.R. 2856. This bill would suspend temporarily the duty on certain inflatable balls (kickballs) other than basketballs and volleyballs (provided for in subheading 9506.62.80 of 9902.95.07), thereby helping Spalding to reduce costs incurred as a result of the high duty rates assessed on these products. Spalding is located in Spru1gfield, Massachusetts and imports kickballs due to the high demand here in the U.S. and the lack of domestic production.

Currently, kickballs imported into the United States face 4.8% in duties. Spalding imports approximately $650,000 of kickballs annually, and we pay approximately $36,000 in duties each year. There currently are no U.s. companies manufacturing inflatable kickballs.

Given that the high duties faced by Spalding are not being justifiably assessed to protect a U.S. industry, we hope that the Subcommittee will favorably report this bill as part of the miscellaneous trade package in the coming months. Also, the bill is designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me if you have any questions on these provisions or require additional information.

Scott H. Creelman
Chief Executive Officer, Spalding Group

Grocery Manufacturers Association
Washington, DC 20037
September 2, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1104 Longworth House Office Building
Washington, DC 20515–6354

Dear Mr. Chairman:

The Grocery Manufacturers Association (GMA) appreciates this opportunity to provide our views to the Subcommittee on Tradein support of H.R. 2896, which would remove the 100% tariff currently imposed on chicory and provide relief to affected Louisiana coffee companies.

GMA is the world's largest association of food, beverage and consumer product companies. With U.S. sales of more than 500 billion dollars, GMA member companies employ more than 2.5 million workers in all 50 states.

This tariff on chicory has been imposed since 1999 when the World Trade Organization Dispute Settlement Board authorized the United States to enact retaliatory tariffs on European Union exports. This was in retaliation for the WTO decision against the EU for its illegal ban on hormone treated U.S. beef. Chicory was one of the products on which the United States Trade Representative's office chose to

impose a 100% *ad valorem* tariff. Virtually all the chicory used in the United States for chicory-coffee blends comes from one small family company in France, so this entire U.S. industry is in effect also suffering as a result of retaliation against the EU. This has had a profoundly negative effect on U.S. chicory-coffee blend producers, as they must pass along this expense to consumers via significant price markups.

As a part of the Trade and Development Act of 2000, these significant retaliations were to have been periodically rotated (see Section 407, which calls for this modification to Section 301 of the Trade Act of 1974), so-called "carousel" retaliation. But, to date, no such carouseling of products has occurred; chicory coming into the U.S. has experienced this 100% tariff since 1999. GMA has filed comments with the 301 Committee dating back to 2000, urging the Committee to rotate away from chicory. This tariff affects a number of coffee products. There is no non-European source for the chicory needed for these products. The tariff has resulted in an estimated annual five million dollar impact on U.S. consumers.

GMA believes that it is time to sanction Section 407 of the Trade Act of 2000 and to finally give the U.S. chicory-coffee producing industry a rest from this harmful tariff. Certainly, what with the current crisis in the State of Louisiana, there can be no better time to release this industry, so equated with that state, from the unfair effects of this tariff.

The Grocery Manufacturers Association appreciates this opportunity to present our views on this matter.

Mary Sophos
Senior Vice President, Chief Government Affairs Officer

Chemalloy Company, Inc.
Bryn Mawr, Pennsylvania 19010
August 19, 2005

Committee on Ways and Means
Subcommittee on Trade
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Dear Subcommittee on Trade:

We are writing to you today to express the serious concerns of the Chemalloy Company, Inc. ("Chemalloy") regarding H.R. 2954, introduced on June 16, 2005, legislation which would suspend the duty on imports of manganese metal flake. Chemalloy is located in Bryn Mawr, Pennsylvania, and has 90 employees. Chemalloy has purchased its manganese metal raw material exclusively from South Africa and has been doing so for over 20 years. We use these products for the production of manganese nuggets for primary steel production, foundry and chemical products, and welding rod fluxes. This legislation would almost wholly benefit imports of manganese metal flake from the People's Republic of China at the expense of imports from the Republic of South Africa, and we hope that the Subcommittee will not include this legislation in any miscellaneous tariff bill as it is both controversial and excessively expensive.

Since there is no U.S. production of manganese metal flake, Chemalloy relies upon South African imports, and South Africa is one of the most reliable manganese suppliers to the U.S. market. China is the only other major source of supply. However, Chinese products contain selenium, an environmentally toxic material which also results in an inferior product that is not acceptable or desirable for many applications.

Our South African supplier, Manganese Metal Company, indicates to us that its financial viability depends on its ability to export to the United States. South African manganese metal flake exports benefit from GSP duty-free treatment pursuant to the African Growth and Opportunity Act ("AGOA"), which is not available to China. Therefore, this legislation will provide a very valuable duty suspension that will effectively benefit only one major exporter—the People's Republic of China.

While Chemalloy fully supports free and open U.S. trade, we would have serious problems with a one-sided duty concession to China at the expense of South Africa. First, the impact on Chemalloy and its employees would be dramatic. Even with the duty free treatment, producers in China have consistently undersold Chemalloy's manganese products over the past few years. Much of our business has been eroded because of low cost, government-subsidized manganese shipments from China. Our

sales tonnage of our manganese end products has dropped over 23% from 2003 to 2004 (from 6,615 net tons to 5,069 net tons, respectively), with sales of only 1,931 net tons in YTD 2005. Given this impact, we cannot support giving a benefit to Chinese producers that would in all likelihood continue to harm Chemalloy—a U.S. company. We do not believe that our Congress should either.

Second, U.S.-China trade relations are currently strained because of a number of difficult issues—the huge trade deficit with China, China's undervalued currency, lack of adequate intellectual property protection, and a variety of alleged unfair trade practices. The President and the Congress are devoting a great deal of effort to enforcing WTO rules and U.S. trade laws to assure that China meets its trade obligations. Therefore, from a broader trade policy perspective, we do not believe it is fair for our Congress to reward China with this duty suspension at this time.

By contrast, South Africa has been pursuing enhanced trade relations and resolution of trade issues with the United States both on its own behalf and on behalf of the Southern African Customs Union. The United States has committed itself under AGOA to encourage the development of disadvantaged communities in South Africa and other African countries. As mentioned above, Manganese Metal Company's financial viability is dependent on the GSP benefits it receives from AGOA, and Chemalloy depends on Manganese Metal Company for a reliable supply of high-quality manganese flake.

Finally, it is our understanding that this legislation will result in revenue losses that far exceed the $500,000 revenue loss limits imposed by the Ways and Means Committee for miscellaneous tariff bills. In 2004, China exported approximately $13.5 million of manganese metal flake to the United States. If Congress were to suspend the current 14% duty, the revenue loss to the United States would be approximately $1.9 million.

In light of the above, H.R. 2954, duty suspension for imports of manganese metal flake, should be rejected and not included in a miscellaneous tariff bill because it is controversial, damages the environment, rewards China at the expense of both a U.S. company and South Africa, and results in large revenue losses.

We hope this information is informative and helpful. If you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

A.C. Demos
President

[By permission of the Chairman.]

Embassy of South Africa
Washington, DC 20008
September 2, 2005

The Honorable Clay Shaw
Chairman of the House Ways and Means Sub-Committee on Trade
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Shaw,

We are writing to you today to express the serious concerns of the Government of South Africa regarding H.R. 2954, introduced on June 16, 2005, legislation which would suspend the duty on imports of manganese metal flake. We hope that you will oppose its inclusion in any miscellaneous tariff bill as it would contradict the spirit and intentions of the African Growth and Opportunity Act (AGOA).

U.S. production of manganese metal flake ceased in 2001. The only producers of manganese metal flake are located in South Africa and the People's Republic of China. The current duty on imports of manganese metal flake is 14%. South Africa already receives duty-free status from the GSP provisions under the AGOA. Therefore, this legislation will negate a very valuable duty benefit currently enjoyed by South Africa under the AGOA.

The United States has committed itself under AGOA to encourage the development of disadvantaged communities in South Africa and other African countries. Even with GSP benefits granted in 2003, the South African manganese metal flake industry continues to struggle. The current rate of unemployment in South Africa is 30% and the average per capita income is $2,500. Many South African industries and service providers (with approximately 1,200 employees) depend on the manganese metal flake industry. Granting duty suspension to manganese metal flake

imports will reduce South African exports, cost South African jobs, and undermine U.S. efforts to assist South Africa in developing its economy. This would worsen the already dire unemployment situation in South Africa and would also disrupt supply to key U.S. industries that rely on South Africa as a consistent and safe supplier of manganese metal flake in their production operations.

As you are aware, South Africa has very stringent regulations pertaining to business, trade and investment, and enjoys a favourable reputation on corporate governance. This has been an influential factor governing our cooperative overall relationship with the United States. Indeed, as a member of the Southern African Customs Union (SACU), we are looking to further deepen and expand our economic and trade relationship beyond the AGOA through a Free Trade Agreement with the United States.

We hope this information is informative and helpful. If you have any questions, please do not hesitate to contact Mudunwazi Baloyi.

Sincerely,

Barbara Masekela
Ambassador

[By permission of the Chairman:]

Manganese Metal Company (Pty) Ltd.
Nelspruit, South Africa
August 11, 2005

Committee on Ways and Means
Subcommittee on Trade
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Dear Subcommittee on Trade:

We are writing to you today to express the serious concerns of the Manganese Metal Company (Pty) Ltd. ("MMC") regarding H.R. 2954, introduced on June 16, 2005, legislation which would suspend the duty on imports of manganese metal flake. This legislation would almost wholly benefit imports of manganese metal flake from the People's Republic of China at the expense of imports from the Republic of South Africa, and we hope that you will oppose its inclusion in any miscellaneous tariff bill as both controversial and excessively expensive.

MMC is a South African company headquartered in Nelspruit, South Africa. MMC is in the business of producing and selling manganese metal products, including manganese metal flake, which are marketed on a world-wide basis. MMC is also one of the remaining producers of manganese metal flake in the world and its financial viability depends on the benefits it receives from GSP under the African Growth and Opportunity Act ("AGOA"). U.S. production of manganese metal flake ceased in 2001. The only other producers of manganese metal flake are located in the People's Republic of China. The current duty on imports of manganese metal flake is 14%. South Africa already receives duty-free status from the GSP provisions under the AGOA. Therefore, this legislation will provide a very valuable duty benefit that effectively benefits only one major exporter—the People's Republic of China.

The uncontrolled production of manganese metal in China causes significant air, water, and ground pollution. The wilful addition of selenium into the Chinese production process and products also poses additional risks in the Chinese production environment and for downstream users of manganese metal flake in the United States. MMC uses a selenium free process in the production of its manganese metal—as did previous producers of manganese metal in the United States.

U.S.-China trade relations are currently strained because of a number of difficult issues—the huge trade deficit with China, China's undervalued currency, lack of adequate intellectual property protection, and a variety of alleged unfair trade practices. Congress is focused on writing trade legislation to deal with these issues, and to enhance enforcement of U.S. trade laws in response to these problems. Including the duty suspension for manganese metal flake imports from China in a miscellaneous tariff bill would reward China despite these substantial trade problems. By contrast, South Africa has been pursuing enhanced trade relations and resolution of trade issues with the United States both on its own behalf and on behalf of the Southern African Customs Union.

The United States has committed itself under AGOA to encourage the development of disadvantaged communities in South Africa and other African countries. The current rate of unemployment in South Africa is 30% and the average per capita income is $2,500. Many South African industries and service providers (with approximately 1,200 employees and full time contractors) depend on MMC for their business. Granting duty suspension to Chinese manganese metal flake imports will reduce MMC's exports, cost valuable South African jobs, and undermine U.S. efforts to assist South Africa in developing its economy. This would worsen the already dire unemployment situation in South Africa and would also disrupt supply to key U.S. industries that rely on MMC as a consistent and safe supplier of manganese metal flake in their production operations.

Furthermore, this legislation will result in revenue losses that far exceed the $500,000 revenue loss limits imposed by the Ways and Means Committee for miscellaneous tariff bills. In 2004, China exported approximately $13.5 million of manganese metal flake to the United States. If Congress were to suspend the current 14% duty, the revenue loss to the United States would be approximately $1.9 million. Even a duty reduction to 7% would cost the United States approximately $950,000 in revenue.

In light of the above, H.R. 2954, duty suspension for imports of manganese metal flake, should be rejected and not included in a miscellaneous tariff bill because it is controversial, results in large revenue losses, damages the environment, and rewards China at the expense of South Africa.

We hope this information is informative and helpful. If you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

Keith Saffy
Marketing Manager

Shieldalloy Metallurgical Corporation
Newfield, New Jersey 08344
September 2, 2005

The Honorable E. Clay Shaw, Jr., Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Dear Chairman Shaw:

In response to Advisory TR–3 (July 25, 2005), we submit the following comments on behalf of Shieldalloy Metallurgical Corporation (Shieldalloy) regarding H.R. 2954, one of the bills identified in that advisory. Shieldalloy is a U.S. producer of manganese-aluminum compacted products, including briquettes and tablets, which are used extensively by the U.S. aluminum industry.[1] As explained in these comments, Shieldalloy opposes the inclusion of H.R. 2954 in a miscellaneous trade package. However, Shieldalloy would support an amended version of this bill that ensured an equitable impact on both U.S. manufacturers of manganese-aluminum compacted products, i.e., one that temporarily suspended the general rate of duty on U.S. imports of both manganese flake and manganese powder.

I. The Immediate Practical Effect of H.R. 2954 Would Be to Suspend the Duty on Imports of Manganese Flake from China

H.R. 2954 would have the effect of temporarily suspending (changing to "free") the general rate of duty applicable to U.S. imports of manganese metal flake containing at least 99.5 percent by weight of manganese (hereafter referred to as "Mn flake"). Mn flake is provided for in subheading 8111.00.47 of the Harmonized Tariff Sched-

[1] Shieldalloy produces manganese-aluminum compacted products at its plant located at 35 South West Boulevard, Newfield, NJ 08344, and has manufactured these articles in the United States since the early 1980's. Manganese-aluminum compacted products are sold primarily to aluminum producers for use in the production of container sheet ingot for aluminum beverage cans. These compacted products are an additive employed to increase the ductility of the container sheet ingot. Enhanced ductility is necessary to deep draw the ingot for use in the production of beverage cans.

ule of the United States (HTSUS),[2] and the general rate of duty applicable to this subheading is 14 percent.

Official import statistics demonstrate that in 2004, imports from China and South Africa combined represented 98.5 percent by weight of total U.S. imports of Mn flake.[3] Imports of Mn flake from China (51.7 percent of total imports) are subject to the 14 percent general rate of duty. However, imports of Mn flake from South Africa (46.7 percent of total imports) enter the United States free of duty under the African Growth and Opportunity Act (AGOA). Therefore, the immediate practical effect of H.R. 2954 would be to suspend the duty applicable to imports of Mn flake from China. However, this duty suspension can also be viewed as solidifying the duty-free treatment that Mn flake from South Africa currently receives under the AGOA.

II. Suspending the Duty on Mn Flake Would Provide an Unfair Competitive Advantage to One of the Two U.S. Companies that Manufacture Manganese-Aluminum Compacted Products

The primary input for the manganese-aluminum compacted products manufactured by Shieldalloy is manganese powder ("Mn powder"), which is Mn flake ground into powder form. Shieldalloy must use imported Mn powder to produce its manganese-aluminum compacted products because competitive conditions prevent it from securing a supply of this input from a domestic source. In 2004, 100 percent of U.S. imports of Mn powder (subheading 8111.00.4910, HTSUS)[4] were subject to the 14 percent general rate of duty.[5]

Aside from Shieldalloy, the only other manufacturer of manganese-aluminum compacted products in the United States is Eramet Marietta, Inc. ("Eramet"). Eramet is by far the larger of the two U.S. manufacturers of these products. Eramet is able to use imported Mn flake as its primary production input because it has the capability to grind the imported flake into manganese powder, which it then uses to manufacture manganese-aluminum compacted products. Shieldalloy cannot use Mn flake as an input because it lacks the additional specialized production facilities required to grind Mn flake into Mn powder.

If H.R. 2954 is included in a miscellaneous trade package and the general rate of duty on Mn flake is suspended, Eramet would gain duty-free access to imports of its major input, Mn flake, from China, the largest U.S. supplier in 2004. As explained above, Mn flake from South Africa, the other primary supplier, already enters the United States duty-free. On the other hand, the imported Mn powder that Shieldalloy relies upon to manufacture manganese-aluminum compacted products would remain subject to a 14 percent duty. Thus, the duty suspension proposed by H.R. 2954 would provide a distinct and substantial cost advantage to Eramet over Shieldalloy.

This price disadvantage could be so significant as to force Shieldalloy to cease its U.S. production of manganese-aluminum tablets and briquettes. This, in turn, would result in the loss of a substantial number of U.S. jobs. Moreover, if Shieldalloy ceases production of manganese-aluminum compacted products, purchasers in the aluminum industry would likely face higher prices from Eramet. Because of the inequitable and damaging result that this bill would generate, Shieldalloy urges the Ways and Means Committee not to include H.R. 2954 in a miscellaneous trade package.

III. Shieldalloy Would Support a Bill That Suspended the General Rate of Duty on Both Mn Flake and Mn Powder

As Shieldalloy has explained, a bill that temporarily suspended the duty applicable to Mn flake would benefit only one of the two U.S. producers of manganese-aluminum compacted products, and would leave Shieldalloy at a significant competitive disadvantage. For this reason, Shieldalloy opposes H.R. 2954.

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[2] Mn flake is described in the HTSUS as "Manganese and articles thereof, including waste and scrap: Other: Unwrought manganese: Flake containing at least 99.5 percent by weight manganese."

[3] U.S. imports for consumption of Mn flake (subheading 8111.00.47, HTSUS) in 2004 totaled 16,779,612 kg (8,679,422 kg from China, 7,840,190 from South Africa, and 260,000 kg from the Netherlands). See http://dataweb.usitc.gov.

[4] Mn powder is described in the HTSUS as "Manganese and articles thereof, including waste and scrap: Other: Unwrought manganese: Other: Powder containing at least 99.5 percent by weight manganese."

[5] In 2004, U.S. imports for consumption of Mn powder (subheading 8111.00.4910, HTSUS) were reported from China (5,485,697 kg), South Africa (4,258,298 kg), and Germany (54,756 kg). See http://dataweb.usitc.gov. Unlike Mn flake, U.S. imports of Mn powder from South Africa do not receive duty-free treatment under the AGOA.

On the other hand, Shieldalloy would support a bill that temporarily suspended the 14 percent general rate of duty on Mn flake and also temporarily suspended the 14 percent general rate of duty on Mn powder containing at least 99.5 percent manganese by weight (subheading 8111.00.4910, HTSUS). Such a bill would benefit both U.S. producers of manganese-aluminum compacted products, as well as a wide range of U.S. consumers.

Therefore, if H.R. 2954 were amended so that it suspended the duty applicable to U.S. imports of both Mn flake and Mn powder, Shieldalloy would support its inclusion in a miscellaneous trade package. However, we reiterate that Shieldalloy opposes H.R. 2954 as introduced.

Cheryl Ellsworth
John B. Totaro, Jr.
Counsel to Shieldalloy Metallurgical Corporation

Charter Brokerage Corporation
Houston, Texas 77084
August 25, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of Charter Brokerage Corporation, regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 2996. We support the inclusion of HR 2996 into this Congress' Miscellaneous Trade Package.

With respect to the above referenced bill, the need for the liquidation or reliquidation of the drawback claims set forth therein are due to the U.S. Custom Service misapplying the retroactive effect of the statutory changes made to the Miscellaneous Trade and Technical Corrections Act of 1999 (P.L. 106–36).

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

Bobby Waid
Executive Vice President

DANZAS AEI Drawback Services
Houston, Texas 77084
August 25, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of DANZAS AEI Drawback Services, regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 2996. We support the inclusion of HR 2996 into this Congress' Miscellaneous Trade Package.

Although the companies involved in this bill are former clients, we feel this legislation clearly will right a wrong and provide for proper liquidation or reliquidation of the drawback claims set forth therein.

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

J.W. Brown

[By permission of the Chairman.]

Pan American Grain Manufacturing
Guaynabo, Puerto Rico 00968
August 30, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of Pan American Grain Manufacturing Co., Inc., regarding the liquidation or reliquidation of a certain drawback claim as set forth in HR 2997. We support the inclusion of this bill into this Congress' Miscellaneous Trade Package.

The need for this reliquidation bill is a result of the U.S. Custom Service not following the standard for determining commercial interchangeability as established by the Court of Appeals for the Federal Circuit in determining whether or not to grant drawbacks for the claims identified in the above referenced bill. Pan American Grain Manufacturing Co., Inc. strongly supports this bill, as it will correct the misapplication by U.S. Customs of the commercial interchangeability standard with respect to exports of rice from the U.S.

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

Milton R. Gonzalez
Vice President

Agramericas, Inc.
Sioux Falls, South Dakota 57186
August 30, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of Agramericas, Inc., regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 2997. We support the inclusion of both of these bills into this Congress' Miscellaneous Trade Package.

The need for these reliquidation bills is a result of the U.S. Custom Service not following the standard for determining commercial interchangeability as established by the Court of Appeals for the Federal Circuit in determining whether or not to grant drawbacks for the claims identified in the above referenced bills. Agramericas, Inc., strongly supports these bills as it will correct the misapplication by U.S. Customs of the commercial interchangeability standard with respect to exports of rice from the U.S.

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

Kevin R. Deuel
President

Charter Brokerage Corporation
Houston, Texas 77084
August 25, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of Charter Brokerage Corporation, regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 2997. We support the inclusion of HR 2997 into this Congress' Miscellaneous Trade Package.

The need for liquidation or reliquidation of the drawback claim set forth in the above referenced bill is due to U.S. Customs liquidating the claims under the incorrect product classification. A request was made by our company to Customs to change the classification of the imported goods as needed to facilitate drawbacks, and the change in the products classification was not timely made by Customs. As a result, Customs liquidated the imported products under the incorrect classification number, resulting in a denial of drawbacks since the classification number of the imported products and those for the exported products did not match. When the matter was addressed with Customs, Customs took the position that the liquidation is final, even if incorrect, and as a result the products classification has been determined. This legislation clearly will right a wrong and provide for proper liquidation or reliquidation of the drawback claims set forth therein.

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

Bobby Waid
Executive Vice President

DANZAS AEI Drawback Services
Houston, Texas 77084
August 25, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of DANZAS AEI Drawback Services, regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 2997. We support the inclusion of HR 2997 into this Congress' Miscellaneous Trade Package.

The need for liquidation or reliquidation of the drawback claim set forth in the above referenced bill is due to U.S. Customs liquidating the claims under the incorrect product classification. A request was made by our client to Customs to change the classification of the imported goods as needed to facilitate drawbacks, and the change in the products classification was not timely made by Customs. As a result, Customs liquidated the imported products under the incorrect classification number, resulting in a denial of drawbacks since the classification number of the imported products and those for the exported products did not match. When the matter was addressed with Customs, Customs took the position that the liquidation is final, even if incorrect, and as a result the products classification has been determined. This legislation clearly will right a wrong and provide for proper liquidation or reliquidation of the drawback claims set forth therein.

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

J.W. Brown

Lyondell Chemical Company
Houston, Texas 77010
September 2, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of Equistar Chemicals, LP, regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 2997. We support the inclusion of HR 2997 into this Congress' Miscellaneous Trade Package.

The need for liquidation or reliquidation of the drawback claim set forth in the above referenced bill is due to U.S. Customs liquidating the claims under the incorrect product classification. A request was made by our company to Customs to change the classification of the imported goods as needed to facilitate drawbacks, and the change in the products classification was not timely made by Customs. As a result, Customs liquidated the imported products under the incorrect classification number, resulting in a denial of drawbacks since the classification number of the imported products and those for the exported products did not match. When the matter was addressed with Customs, Customs took the position that the liquidation is final, even if incorrect, and as a result the products classification has been determined. This legislation clearly will right a wrong and provide for proper liquidation or reliquidation of the drawback claims set forth therein.

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

Norman Phillips
Senior Vice President

The Garlic Company
Bakersfield, California 93314
August 29, 2005

To: Ways and Means Committee Submittal

We are the owners of The Garlic Company. The Garlic Company packs and ships both fresh and peeled garlic. We employ approximately 125 full time employees and 325 employees seasonally.

We are very strongly opposed to H.R. 1121 Miscellaneous Tariff Bill (MTB) calling for the repeal of the CDSOA. We are also very strongly opposed to H.R. 2473(in the MTB), which alters the calculations of the "all others" rate AD/CVD cases. This would significantly reduce the amount of duties collected and distributed under CDSOA.

The distributions made to The Garlic Company under the CDSOA have helped in our survival against the massive amounts of imports from China. However these distributions have not been the "windfall" that one reads in many publications and hears from some politicians. The distributions contribute but do not fully compensate for damage done to our industry by unscrupulous Chinese importers. Distributions made to The Garlic Company have enabled us to make some improvements to our processing systems, which have contributed to lowering our cost. It has also allowed us to continue to employ our attorney group, which has been instrumental in defending ourselves against dishonest Chinese importers of fresh and peeled garlic. Through this group we have been able to give both Customs and the Department of Commerce valuable information. This information has led to a "crack down" on the never—ending scams and schemes of the unscrupulous Chinese garlic importers. This unscrupulous activity also harms the legitimate Chinese importer. In the past ten years, our group, has supplied information to either the Department of Commerce or Customs that has led to action against the following schemes:

1) False declaration of the country of origin concerning Chinese garlic. This results in no duties paid or collected on Chinese garlic. This Chinese garlic is sold at

very low prices thus driving down the price of domestic garlic and legitimate Chinese garlic.

2) Under declaring the value of imported Chinese garlic to avoid paying higher duties. In some cases this value was placed at a one-cent or a fraction of a cent. This results in incorrect and small amounts of duties being collected. This garlic is sold at far below market prices, which lowers the market for domestic and legitimately imported Chinese garlic.

3) Under declaring the amounts shipped within a container. This results in no duty being paid on the amounts undeclared within the container which enables the importer to sell at a lower than market price. This damages the market for the domestic shipper and the legitimate Chinese shipper.

4) Smuggling Chinese garlic from Canada into the United States. This results in no duties being collected and garlic that sells below the market price, which damages both the domestic shipper and legitimate importer.

5) Falsification of import documents. Chinese importers with high duty rates use the import information of Chinese importers with low or no duty rates. This many times occurs without the knowledge of the Chinese importer with the lower duty rates. This results in little or no duty being collected and damages the market for both the domestic shipper and legitimate Chinese importer.

6) Falsely declaring the contents of a container. An importer will load a container with garlic and declare it to be ginger or some other non-duty commodity. This results in no duties paid and harms the market for both the domestic shipper and legitimate Chinese importer.

These schemes and shams are something that a domestic garlic producer has to live with on a daily basis. Through our group's efforts and with the help of some legitimate Chinese importers we are able to gather information, which has helped both the Department of Commerce and Customs, curtail some of this activity. We understand these government agencies are understaffed and overworked so any creditable information that we can supply is helpful and saves tax dollars for all Americans. Domestic garlic producers can compete with legitimate Chinese garlic importers; we cannot compete against the unscrupulous importers of Chinese garlic. The CDSOA funds we receive partially help to uncover and stop the scams and schemes of the unscrupulous Chinese importers. This is essential to our survival.

No country can survive as a service oriented country. We need to support manufacturing and agriculture jobs in this Country for the long-term benefit of all our citizens. We expect our politicians to do their part by opposing the repeal of the CDSOA.

We also expect our politicians to support the United States sovereign right to distribute taxes as determined by Congress by fighting efforts to undermine the CDSOA in the World Trade Organization. We understand that Congress has called for our trade negotiators in the ongoing Dpha round to push for revision of the WTO agreements. We particularly agree that CDSOA and similar programs relating to individual countries' use of the AD/CVD duties they collect will be expressly accepted as WTO consistent. We feel this is the method to resolve the WTO dispute that is the basis for calls to repeal the Byrd Amendment. Thank you for your efforts in reviewing this very important issue.

With best regards,

Joe Lane
John Layous

Charter Brokerage
Houston, Texas 77084
August 25, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of Charter Brokerage Corporation, regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 2998. We support the inclusion of HR 2998 into this Congress' Miscellaneous Trade Package.

With respect to the above referenced bill, the need for the liquidation or reliquidation of the drawback claims set forth therein are due to the U.S. Custom Service misapplying the retroactive effect of the statutory changes made to the Miscellaneous Trade and Technical Corrections Act of 1999 (P.L. 106–36).

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

Bobby Waid
Executive Vice President

Chevron U.S.A. Inc.
San Ramon, California 94583
September 2, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of Chevron USA, Inc., regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 2998. We support the inclusion of HR 2998 into this Congress' Miscellaneous Trade Package.

With respect to the above referenced bill, the need for the liquidation or reliquidation of the drawback claims set forth therein are due to the U.S. Custom Service misapplying the retroactive effect of the statutory changes made to the Miscellaneous Trade and Technical Corrections Act of 1999 (P.L. 106–36).

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

Ken Kleier

DANZAS AEI Drawback Services
Houston, Texas 77084
August 25, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of DANZAS AEI Drawback Services, regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 2998. We support the inclusion of HR 2998 into this Congress' Miscellaneous Trade Package.

Although the companies involved in this bill are former clients, we feel this legislation clearly will right a wrong and provide for proper liquidation or reliquidation of the drawback claims set forth therein.

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

J.W. Brown

Charter Brokerage Corporation
Houston, Texas 77084
August 25, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of Charter Brokerage Corporation, regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 2999. We support the inclusion of HR 2999 into this Congress' Miscellaneous Trade Package.

With respect to the above referenced bill, the need for the liquidation or reliquidation of the drawback claims set forth therein are due to the U.S. Custom Service misapplying the retroactive effect of the statutory changes made to the Miscellaneous Trade and Technical Corrections Act of 1999 (P.L. 106–36).

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

Bobby Waid
Executive Vice President

Chevron U.S.A. Inc.
San Ramon, California 94583
September 2, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of Chevron USA, Inc., regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 2999. We support the inclusion of HR 2999 into this Congress' Miscellaneous Trade Package.

With respect to the above referenced bill, the need for the liquidation or reliquidation of the drawback claims set forth therein are due to the U.S. Custom Service misapplying the retroactive effect of the statutory changes made to the Miscellaneous Trade and Technical Corrections Act of 1999 (P.L. 106–36).

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

Ken Kleier

DANZAS AEI Drawback Services
Houston, Texas 77084
August 25, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of DANZAS AEI Drawback Services, regarding the liquidation or reliquidation of certain draw-

back claims as set forth in HR 2999. We support the inclusion of HR 2999 into this Congress' Miscellaneous Trade Package.

Although the companies involved in this bill are former clients, we feel this legislation clearly will right a wrong and provide for proper liquidation or reliquidation of the drawback claims set forth therein.

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

J.W. Brown

BP America, Inc.
Warrenville, Illinois 60555
September 1, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of BP Products North America, Inc., regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 3001. We support the inclusion of HR 3001 into this Congress' Miscellaneous Trade Package.

With respect to the above referenced bill, the need for the liquidation or reliquidation of the drawback claims set forth therein are due to the U.S. Custom Service misapplying the retroactive effect of the statutory changes made to the Miscellaneous Trade and Technical Corrections Act of 1999 (P.L. 106–36).

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

Timothy W. Van Oost
Director of Customs

Charter Brokerage Corporation
Houston, Texas 77084
August 25, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of Charter Brokerage Corporation, regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 3001. We support the inclusion of HR 3001 into this Congress' Miscellaneous Trade Package.

With respect to the above referenced bill, the need for the liquidation or reliquidation of the drawback claims set forth therein are due to the U.S. Custom Service misapplying the retroactive effect of the statutory changes made to the Miscellaneous Trade and Technical Corrections Act of 1999 (P.L. 106–36).

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

Bobby Waid
Executive Vice President

Chevron USA, Inc.
San Ramon, California 94583
September 2, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of Chevron USA, Inc., regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 3001. We support the inclusion of HR 3001 into this Congress' Miscellaneous Trade Package.

With respect to the above referenced bill, the need for the liquidation or reliquidation of the drawback claims set forth therein are due to the U.S. Custom Service misapplying the retroactive effect of the statutory changes made to the Miscellaneous Trade and Technical Corrections Act of 1999 (P.L. 106–36).

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

Sincerely,

Ken Kleier

DANZAS AEI Drawback Services
Houston, Texas 77084
August 25, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of DANZAS AEI Drawback Services, regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 3001. We support the inclusion of HR 3001 into this Congress' Miscellaneous Trade Package.

Although the companies involved in this bill are former clients, we feel this legislation clearly will right a wrong and provide for proper liquidation or reliquidation of the drawback claims set forth therein.

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

J.W. Brown

Charter Brokerage Corporation
Houston, Texas 77084
August 25, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of Charter Brokerage Corporation, regarding the liquidation or reliquidation of certain drawback

claims as set forth in HR 3002. We support the inclusion of HR 3002 into this Congress' Miscellaneous Trade Package.

With respect to the above referenced bill, the need for the liquidation or reliquidation of the drawback claims set forth therein are due to the U.S. Custom Service misapplying the retroactive effect of the statutory changes made to the Miscellaneous Trade and Technical Corrections Act of 1999 (P.L. 106–36).

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

Bobby Waid
Executive Vice President

DANZAS AEI Drawback Services
Houston, Texas 77084
August 25, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of DANZAS AEI Drawback Services, regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 3002. We support the inclusion of HR 3002 into this Congress' Miscellaneous Trade Package.

Although the companies involved in this bill are former clients, we feel this legislation clearly will right a wrong and provide for proper liquidation or reliquidation of the drawback claims set forth therein.

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

J.W. Brown

[By permission of the Chairman:]

Pan American Grain Manufacturing Co., Inc.
Guaynabo, Puerto Rico 00968
August 30, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of Pan American Grain Manufacturing Co., Inc., regarding the liquidation or reliquidation of a certain drawback claim as set forth in HR 3002. We support the inclusion of this bill into this Congress' Miscellaneous Trade Package.

The need for this reliquidation bill is a result of the U.S. Custom Service not following the standard for determining commercial interchangeability as established by the Court of Appeals for the Federal Circuit in determining whether or not to grant drawbacks for the claims identified in the above referenced bill. Pan American Grain Manufacturing Co., Inc. strongly supports this bill, as it will correct the misapplication by U.S. Customs of the commercial interchangeability standard with respect to exports of rice from the U.S.

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

Milton R. Gonzalez
Vice President

The Connell Company
Berkeley Heights, New Jersey 07922
August 30, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005, on behalf of Connell Rice & Sugar Co., a Division of The Connell Company (*Connell*). We **support** the inclusion of **HR 3002,** a bill regarding the liquidation or reliquidation of certain drawback claims, into this Congress' Miscellaneous Trade Package.

This reliquidation bill is needed as a result of the U.S. Custom Service not following the standard for determining commercial interchangeability as established by the Court of Appeals for the Federal Circuit in determining whether or not to grant drawbacks for the claims identified in the above-referenced bill. Connell strongly supports this bill as it will correct the misapplication by U.S. Customs of the commercial interchangeability standard with respect to exports of rice from the U.S.

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned at the above address or phone number. We thank the Committee for its consideration of these comments.

Grover Connell
President

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its **support** for the following bills:

H.R. 3308—To suspend temporarily the duty on erasers.
H.R. 3309—To suspend temporarily the duty on nail clippers.
H.R. 3310—To suspend temporarily the duty on artificial flowers.
H.R. 3311—To suspend temporarily the duty on electrically operated pencil sharpeners.
H.R. 2477—To suspend, temporarily the duty on bicycle speedometers.
H.R. 2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-angle re-

flectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.

H.R. 2479—To suspend temporarily the duty on unicycles.

H.R. 2556—To suspend temporarily the duty on air freshener electric devices with warmer units.

H.R. 2557—To suspend temporarily the duty on air freshener electric devices.

H.R. 2817—To suspend temporarily the duty on certain basketballs.

H.R. 2818—To suspend temporarily the duty on certain leather basketballs.

H.R. 2819—To suspend temporarily the duty on certain rubber basketballs.

H.R. 2820—To suspend temporarily the duty on certain volleyballs.

H.R. 2821—To suspend temporarily the duty on certain synthetic basketballs.

H.R. 3033—To (1) provide duty-free treatment for certain educational devices; and (2) extend such treatment through December 31, 2008.

H.R. 3112—To suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.

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These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

Deere & Company
Moline, Illinois 61265
August 30, 2005

The Honorable Clay Shaw
Chairman,
Subcommittee on Trade
Committee on Ways & Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Deere & Company ("Deere") appreciates this opportunity to comment on H.R. 3066, a bill to provide separate tariff categories for certain tractor body parts suitable for agricultural use. Deere is a worldwide leader in the manufacture, distribution and financing of a full line of agricultural equipment, as well as construction and forestry equipment, commercial and consumer equipment, and other technological products and services. Deere believes the tariff changes provided in H.R. 3066 are necessary and strongly supports the bill's enactment.

H.R. 3066 would complete the effort made by the Congress through the 2004 Miscellaneous Tariff Classification legislation to provide for the duty-free treatment of certain parts of agricultural tractors that is currently provided for virtually all other tractor parts. This is an anomaly that denies such duty free treatment to all tractor body parts, which has had an adverse effect on Deere's U.S. operations. Deere supports the proposed changes in H.R. 3066 to rectify the ongoing inconsistency.

The effect of H.R. 3066 would be to establish a new heading under "Parts and Accessories of the motor vehicles of headings 8701 to 8705" that distinguishes certain parts of bodies used for agricultural purposes from those used for motor vehicles, and provides for their duty-free treatment.

The Harmonized Tariff schedule today includes headings for agricultural tractors (8701.90.10), tractor bodies (8707.90.10), chassis (8706.00.30), and numerous other components (brakes, wheels, struts, etc.) that are "suitable for agricultural use" (8708). All these items have a duty-free tariff. In 2004, the Congress added a subheading for body stampings, consistent with the longstanding principle under the U.S. Harmonized Tariff Code that all agricultural equipment and parts should receive duty-free treatment.

However, absent the changes proposed in H.R. 3066, certain tractor body parts not explicitly provided for by the schedule will continue to be misclassified as parts of motor vehicles and subject to duties of 2.5 percent. The illogical result of this continued misclassification is that today, imported tractors, assembled tractor bodies, unspecified tractor parts and some tractor body parts may enter the U.S. duty-free, yet other tractor body parts are subject to the 2.5 percent duty that applies to body parts of motor vehicles.

Deere manufactures approximately 85 different models of agricultural tractors in factories in the U.S. and around the world, many with interchangeable parts. In addition, Deere imports a variety of parts and accessories for exclusive use on U.S.-made John Deere tractors. At present, the volume of imported tractor body parts is relatively low and their use is primarily as service and repair parts by John Deere dealers across the U.S. However, Deere anticipates that imports of these body parts will increase as it expands the U.S. production of certain John Deere tractor models, and the corresponding demand for imported body parts for assembly in its U.S. plants rises also. The remaining 2.5 percent duty on tractor body parts impacts not only Deere, but independent John Deere dealers across the U.S. who rely on imported parts to service equipment, and their U.S. farmer customers.

Deere strongly supports the timely enactment of H.R. 3066 to amend the U.S. Harmonized Tariff Schedule to provide a new duty-free classification for tractor body parts, so that these items are treated the same way as other tractor parts, assembled tractor bodies and imports of tractors suitable for agricultural use. Should you have any questions about Deere's views, please contact John Rauber, (202) 223–4817, in Deere's Public Affairs Worldwide office.

Thomas K. Jarrett
Vice President
Tax Department

Deere & Company
Moline, Illinois 61265
August 30, 2005

The Honorable Clay Shaw
Chairman,
Subcommittee on Trade
Committee on Ways & Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Deere & Company ("Deere") appreciates this opportunity to comment on H.R. 3067, a bill to provide duty-free treatment for certain "log forwarders" consistent with other agricultural use log handling equipment. Deere believes this bill is necessary and appropriate, and strongly supports its enactment.

Deere is a worldwide leader in the manufacture, distribution and financing of a full line of agricultural equipment, as well as construction and forestry equipment, commercial and consumer equipment, and other technological products and services. Deere's forestry equipment subsidiary, Timberjack, designs and manufactures log forwarders at its factory in Finland. A log forwarder is an integral piece of equipment used in the harvesting of timber, primarily to load and haul logs for a short distance from the timberline down to the staging area. Over the past 3 years Deere imported approximately 25 log forwarders per year (28 in 2001) into the U.S. for use by loggers in timber harvesting activities in this country.

Each forwarder consists of a front and rear section. The front section consists of a tractor with an engine, steerable wheels and an ergonomically designed driver's cab. The rear section has a wood gate, and a bunk with steel frames fitted to the front section by two pins. In addition the aft section has a wood handling knuckle boom controlled from the driver's cab in the forward section. The front and rear sections are connected by means of an articulation joint for steering the tractor. The forward section supplies power to the rear drive wheels by means of an articulated drive shaft and also supplies hydraulic power to the rear section.

There is no specific heading currently in the Harmonized Tariff Schedule of the United States covering log forwarders. The Finnish Customs Bureau has ruled that Timberjack forwarders are within the scope of Section 8701 ("Tractors") and its subheadings. Deere recently requested a Classification Ruling from the New York Customs Service office that the Timberjack forwarders were within Section 8701.90 "Tractors suitable for agricultural use . . .", to confirm their duty-free treatment in the U.S. consistent with all other equipment suitable for agricultural use. The New York Customs Office, however, issued a Classification Ruling that the Timberjack forwarders are classified as 8704.23.0000—"Motor vehicles for the transport of goods" dutiable at a 25 percent rate.

This ruling has created the anomaly of applying import duties to log forwarders to the exclusion of other agricultural equipment imported into the United States. As a practical matter, Deere and other importers have the option of dismantling the forwarder (i.e. separating the front and rear sections) and bringing it into the U.S. as component parts. In doing so, Customs treats them as "Parts and accessories of motor vehicles" dutiable at 2.5 percent. (Thus, the revenue impact of any tariff change should be measured using the 2.5 percent duty rather than the 25 percent duty.) Nonetheless, this practice perpetuates the duty applied to these imports and adds significant expense involved in dismantling the forwarder into two pieces for shipment to the U.S., and then reassembling the unit.

Deere strongly supports enactment of H.R. 3067 in order to properly apply the duty free treatment to log forwarders intended for all agricultural equipment. While Deere would prefer that log forwarders be treated under the subheading dealing with "Tractors suitable for agricultural use," Deere believes that the creation of a new subheading under "Motor vehicles for the transport of goods" appropriately addresses Customs' concern regarding the proper and consistent definition of "Tractor" as being inclusive of the forwarder.

H.R. 3067 is an effective way for Congress to establish a new duty-free classification for log forwarders and parts of log forwarders. H.R. 3067 will result in the tariff treatment of log forwarders imported into the United States being consistent with treatment of other log handling equipment, and consistent with the tariff treatment of log forwarders in other parts of the world.

For the above reasons, Deere urges the timely enactment of H.R. 3067. Should you have any questions about Deere's views, please contact John Rauber, (202) 223–4817 in Deere's Public Affairs Worldwide office.

Thomas K. Jarrett
Vice President
Tax Department

Ponsse N.A. Inc.
Rhinelander, Wisconsin 54501
August 29, 2005

The Honorable E. Clay Shaw, Jr. Chairman
Subcommittee on Trade
Committee on Ways and Means
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Pursuant to the Committee on Ways and Means Subcommittee on Trade Advisory No. TR–3 dated July 25, 2005, the following comments are respectfully submitted by Ponsse N.A. Inc. in support of H.R. 3067, a bill to grant permanent duty free status to crane equipped log forwarders.

Ponsse N.A. Inc. ("Ponsse") is an importer and re-seller of forest machines including the log forwarders of the type that are the subject of H.R. 3067. Ponsse also provides after-sales warranty and maintenance service for the machines it sells to customers throughout the United States.

Ponsse supports H.R. 3067 because the bill corrects a classification anomaly in the tariff schedule which imposes a prohibitive tariff rate on log forwarders while all other articles of a type used for agricultural or forestry purposes historically are imported duty free.

DESCRIPTION OF LOG FORWARDERS

The log forwarders in question are machines used in the forestry industry to facilitate the movement of cut and de-limbed logs from the cutting site in the forest to the side of a road where they can be loaded onto a conventional truck for transportation to a mill for further processing.

A log forwarder combines the features of a mobile crane with those of an agricultural tractor and a trailer. However, a log forwarder is specially designed to maneuver in rough forest terrain and it has limited range, its usefulness being confined to negotiating the short distance between the cutting site and the road where the logs will be loaded for transportation to a mill. A log forwarder is not suitable for over-the-road use or for the general transportation of goods. The engines in log forwarders imported by Ponsse are only approved by the EPA for off-road use.

Log forwarders are a relatively new article of commerce that represent a recent advancement in both technology and forest management, utilizing the cut-to-length method of harvesting. Most timber is harvested in the United States using the traditional method which involves use of separate machines to (a) cut down a tree, (b) de-limb it, (c) drag it to an area where it can be further cut, (d) cut it to specified size and then (e) load the timber onto an over-the-road truck for transport. The log forwarder works in tandem with a mobile tree harvester and together they perform all of the foregoing functions using two machines instead of up to five. Because the cut-to-length method reduces the number of machines in the forest, because the machines themselves employ oversize rubber tires (instead of tracks) and because the tree cuttings are left on the forest floor at the cutting site, this method is believed to be more environmentally friendly than the traditional method.

In appearance, log forwarders consist of two sections, joined together by a flexible pivot joint. The front section resembles an agricultural tractor and contains the engine, an enclosed cab for the operator, and the hydraulics or other systems to power the crane. The rear section resembles an open trailer with bogie axles to allow for movement along uneven terrain, to which a heavy crane has been permanently mounted. In the models imported by Ponsse, a disengageable drive shaft extends back from the engine in the tractor to provide motive force to the rear axle of the trailer.

HISTORICAL DUTY FREE TARIFF TREATMENT

The purpose of the technical correction to the tariff schedule proposed in H.R. 3067 is to restore the duty free status of all agricultural implements that has been enacted historically by Congress.

Timber harvesting and logging have long been considered bona fide agricultural operations for purposes of United States tariff policy. See, *United States v. Norman G. Jensen, Inc.,* 64 CCPA 51 (C.A.D. 1183), 550 F.2d 662 (1977); *United States v. Border Brokerage Co., Inc.,* 1 Fed. Cir. (T) 58, 706 F.2d 1579 (1983).

At least as far back as the Tariff Act of 1922, the tariff contained a provision that granted duty free status to specified agricultural articles "and all other agricultural implements of any kind or description not specifically provided for" unless expressly listed for duty payment. (Tariff Act of 1922, Para. 1504) This provision was effectively carried forward in Schedule 16 of the Tariff Act of 1930, as Paragraph 1604. The general duty free status of agricultural goods was continued when the TSUS was implemented in 1962 under TSUS 666.00. This duty free treatment was specifically recognized in The Tariff Classification Study where it was stated: "From the legislative history of paragraph 1604, 'Court Decisions,' Congress intended to aid those engaged in agriculture by permitting the importation of agricultural implements free of duty." Tariff Classification Study, Explanatory and Background Materials, Schedule 6, p. 647 (United States Tariff Commission 1960).

When the HTSUS was implemented in 1989, the old Section 666.00 of the TSUS was broken up so that the various statistical subheadings of the TSUS provision were given separate 6 digit subheadings under the HTSUS. All of the many new subheadings in the new structure of the HTS provided duty free status for agricultural articles. See "Conversion of the Tariff Schedule of the United States Annotated into the Nomenclature Structure of the Harmonized System," Annex II, p. 971 (USITC Publ. 1400, June 1983).

CURRENT ANOMALOUS TARIFF TREATMENT

Before the development of log forwarders, the principal means for the removal of harvested timber was a log skidder that dragged logs along the forest floor by use of a conveyor type cable. Like other forestry machinery, log skidders have duty free status under HTSUS 8701.90.10.01 which specifically describes log skidders.

There is no provision in the tariff that specifically describes log forwarders. For some time log forwarders achieved duty free status when they were classified as tractors and trailers which are duty free agricultural implements. However, in a review of classification of log forwarders, the government reversed the duty free tractor/trailer classification because the forwarder consists of a tractor and a trailer that are both powered by an engine power drive.

Consequently, U.S. Customs and Border Protection (formerly U.S. Customs Service) now classifies log forwarders, in the absence of any specific description, under Heading 8704 of the HTSUS which is a general default provision within Chapter 87 of the HTSUS that provides for "motor vehicles for the transport of goods." This heading carries an ad valorem duty rate of 25%. This is the same provision which encompasses one piece diesel trucks, which are the real target of the prohibitive 25% duty rate. In short, log forwarders are subject to an extraordinarily high duty purely by the accident of the general laws of classification.

H.R. 3067 leaves log forwarders within HTS Heading 8704 but breaks out forwarders as enumerated articles and assigns them the "free" rate appropriate to agricultural goods. There is no evidence that Congress intended for this new article of commerce to have a prohibitive duty rate assigned to it contrary to decades of duty free treatment allowed for other articles dedicated to agricultural use. Indeed, there is persuasive evidence that the existing classification runs sharply against the current of United States tariff policy with respect to articles used for agricultural and forestry purposes. Most articles imported for agricultural purposes may be imported duty free. For example, agricultural tractors may be imported duty free under Heading 8701 of the HTSUS. The forest harvesters used with the log forwarders may be imported duty free under Heading 8436 of the HTSUS. Other forest machines may be imported duty free under Heading 8432 of the HTSUS. The classification of log forwarders within Heading 8704, if technically correct under the current tariff treatment, is nonetheless an anomaly, particularly with regard to the prohibitive tariff rate currently applicable.

REVENUE NEUTRALITY

There will be no direct loss of revenue of the United States as a result the specific duty free classification for log forwarders provided for in H.R. 3067. Although the inclusion of log forwarders in the same provisions as diesel trucks precludes any product specific data on log forwarder imports, it is a simple fact that the 25% *ad*

valorem duty makes any import of log forwarders commercially unfeasible. These forest machines typically sell for prices in the low six figures, making them wholly uncompetitive at the 25% increase in their landed cost. Consequently, it is a reasonable conclusion, and we believe an accurate one, that no imports of assembled log forwarder are currently occurring, and therefore, no duty is being realized from the current classification of log forwarders under HTSUS 8704.

Available data on imports from those countries in which log forwarders are manufactured for the U.S. market, i.e. Finland, Sweden and Canada, confirms the conclusion that no dutiable imports of log forwarders occurred and therefore H.R. 3067 is revenue neutral. (See Attachment A *infra.*) All imports under the various tariff numbers that include log forwarders in 2003–2004 were from Canada, which *presumably were duty free under NAFTA.* However, Ponsse has no way of determining how much of this value even relates to the importation of any log forwarders since the relevant tariff numbers also include ordinary diesel trucks, certainly a much more common article than a log forwarder.

In sum, United States trade statistics indicate that, even though log forwarders are classified in the same provisions as diesel trucks, there have nevertheless been no significant dutiable imports from these countries under any of the subheadings in which a log forwarder would be classified. This is undoubtedly due to the prohibitive rate applicable to articles classified within Heading 8704, HTSUS.

Although no importer is paying 25% duty on log forwarder imports, log forwarders are currently being imported in "parts" and assembled in the United States for sale. These imports are occurring through the lawful practice of "tariff engineering." If the front (tractor) section and rear section (trailer with mounted crane) are imported separately, Customs classifies each section as a "part" of a motor vehicle within Heading 8708, HTSUS. The applicable sub-heading for "parts" has a 2.5% *ad valorem* duty rate. However, the importer must pay separate shipping, forwarding, customs brokerage, and insurance fees for each section and must then assemble the separate sections before it can deliver the log forwarder to its customer. This process is inefficient, results in delay in delivery to the customer, and increases the importer's costs. Since many purchasers of log forwarders are independent owner/operators who lease their machines to logging companies, the inherent inefficiency in the import process and the increased costs to the importer are passed along to downstream participants in the logging industry, including logging companies, lumber and paper mills, and ultimately, to users of paper and wood products.

In addition to parts of log forwarders and other vehicles for the transport of goods, the applicable parts provision in Heading 8708 HTSUS pulls in parts from Headings 8701 through 8705, which include tractor parts, motor vehicle parts, truck parts and parts for certain special purpose vehicles. Consequently, it is impossible to estimate the revenue impact from H.R. 3067 from the current practice of importing log forwarders in sections and paying 2.5% *ad valorem* under Heading 8708.

RETROACTIVITY

There will be no retroactive effect to this legislation. It will apply to importations of log forwarders on or after the effective date of the comprehensive legislation as specified therein.

NON–CONTROVERSIAL

H.R. 3067 is non-controversial in that it is merely restoring the duty free status for this category of product that Congress has bestowed historically. Because the current classification of log forwarders in a provision that also includes diesel trucks has occurred merely by default of general classification law, it is clear that Congress never intended to render tariff protection to any domestic industry that produces log forwarders. Any suggestion of such protection is rebutted by the fact no other similar agricultural or forestry implement falls in a dutiable category. As a relatively new article of commerce, log forwarders are defaulted into classification in Heading 8704, HTSUS only because there is no specific provision in the tariff for such specialized articles. H.R. 3067 merely provides a technical correction to the existing tariff to classify log forwarders under a specific description, at a duty rate consistent with historical Congressional treatment, and outside of the high duty rate classification intended to protect industries other than manufacturers of agricultural or forestry machinery.

EASE OF ADMINISTRATION

Log forwarders described in H.R. 3067 are easily identifiable articles of commerce and will not present the U.S. Customs and Border Protection with any special problems or difficulties in classification.

CONCLUSION

For the foregoing reasons, Ponsse N.A. Inc. respectfully submits that H.R. 3067 should be included in the miscellaneous trade bill for technical correction to the tariff schedule. If the Committee would like additional information on these points, the following individuals may be contacted:

Ruth Nelson
Import Compliance Manager

ATTACHMENT A

Import Value Data

Log forwarders are classified, according to weight in metric tons, in 8704.22.50 HTSUSA. The applicable subheading classifications for Ponsse's forwarders are 8704.22.5040, 8704.22.5060 and 8704.22.5080. These classifications are all eligible for NAFTA duty preferences. Presumably imports from Canada qualify for NAFTA preferences and no duty is paid on these. Since forwarders are classified in the same heading that applies to diesel trucks, it is not possible to distinguish between forwarders and trucks classified within the same subheading. However, U.S. import trade statistics indicate that the following values and quantities were imported under the relevant tariff subheadings for 2003 and 2004:

8704.22.5040-exceeding 9 metric tons but not exceeding 12 metric tons		
2003	2004	
CANADA	$12,373,598.00	$12,578,801.00
FINLAND	$0.00	$0.00
SWEDEN	$0.00	$0.00
8704.22.5060-exceeding 12 metric tons but not exceeding 15 metric tons		
2003	2004	
CANADA	$25,556,529.00	$24,013,151.00
FINLAND	$0.00	$0.00
SWEDEN	$0.00	$0.00
8704.22.5080-exceeding 15 metric tons but not exceeding 20 metric tons		
2003	2004	
CANADA	$11,330,110.00	$9,089,254.00
FINLAND	$0.00	$0.00
SWEDEN	$0.00	$0.00

(Source: USA Trade Online Import Statistics)

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben
Cardin Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
3Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its support for the following bills:

H.R. 3308—To suspend temporarily the duty on erasers.
H.R. 3309—To suspend temporarily the duty on nail clippers.
H.R. 3310—To suspend temporarily the duty on artificial flowers.
H.R. 3311—To suspend temporarily the duty on electrically operated pencil sharpeners.
H.R. 2477—To suspend, temporarily the duty on bicycle speedometers.
H.R. 2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-

angle reflectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.
H.R. 2479—To suspend temporarily the duty on unicycles.
H.R. 2556—To suspend temporarily the duty on air freshener electric devices with warmer units.
H.R. 2557—To suspend temporarily the duty on air freshener electric devices.
H.R. 2817—To suspend temporarily the duty on certain basketballs.
H.R. 2818—To suspend temporarily the duty on certain leather basketballs.
H.R. 2819—To suspend temporarily the duty on certain rubber basketballs.
H.R. 2820—To suspend temporarily the duty on certain volleyballs.
H.R. 2821—To suspend temporarily the duty on certain synthetic basketballs.
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H.R. 3112—To suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
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H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
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1104 Longworth House Office Building
Washington, D.C. 20515
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Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515
The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
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Dear Chairman Shaw and Ranking Member Cardin:

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Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

Global Home Products
Westerville, Ohio 43082
September 1, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade
Committee on Ways and Means
House of Representatives
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

Thank you for the opportunity to offer comments regarding the miscellaneous duty suspension bills recently introduced in the Congress. My comments will focus on H.R. 3116, a bill "To suspend temporarily the duty on certain glass articles." This bill seeks to suspend the duty on tariff subheading 7013.99.90, Glass articles valued over $5 each, whether or not put up in sets, put up for mail order retail sale, and each weighing not over 4 kg together with their retail packaging, until December 31, 2008. This bill would therefore allow glassware entered under this subheading free of duty for the next three years. Global Home Products strongly objects to this tariff suspension and believes it will result in revenue loss and attract controversy.

I. About Us—Global Home Products and Anchor Glass

Global Home Products (GHP) is a leading designer, marketer and manufacturer of a diverse portfolio of quality consumer products across all price categories for retail, hospitality and original equipment manufacturer (OEM) customers. GHP sells its home products through its businesses Anchor Hocking®, the Burnes Group and WearEver.

One of our premier companies is Anchor Hocking. Anchor is a leading marketer and manufacturer of a comprehensive line of glass beverageware, candle containers, servingware, ovenware, storageware, lighting components and other glass products. Anchor sells glassware and tableware under the brand names Anchor Hocking®, Fire-King®, Toscany®, Phoenix GlassTM, and Jade-ite™. We are the second largest supplier of consumer glassware in the United States. We manufacture substantially all of our glassware products at our manufacturing facilities in Ohio and Pennsylvania and employ approximately *1600 workers, almost 1450 of whom are unionized* through the United Steelworkers of America.

Celebrating its 100th anniversary, Anchor Hocking has a rich American history. Purchased in 1905 for $25,000, the Hocking Glass Company began operations near the Hocking River in Lancaster, Ohio. It survived the depression through the use of the revolutionary automatic glass press. Through various acquisitions, the company grew both in size and product lines—manufacturing glass, plastic containers, lighting, earthenware, china and commemorative plates. After the purchase of the company in 1987 by Newell Corporation, the company was reinvigorated with capital and some of the less profitable businesses were closed or sold. The company is now owned by Global Home Products LLC, an affiliate of Cerberus Capital Management LP. Today, Anchor Hocking designs and produces a comprehensive line of glass beverageware and tableware:

- *Beverageware.* Anchor produces a full line of dishwasher-safe glass beverageware featuring both traditional and contemporary designs, from small juice glasses to large coolers and oversized pitchers. Anchor markets its beverageware under the Anchor Hocking® brand.
- *Candle Containers.* Anchor manufactures a variety of styles of glass accessories for taper, pillar and votive candles. Since late 2002, Anchor has introduced over 50 new candle products.
- *Servingware.* Anchor offers an extensive line of glass servingware products ranging from a simple, cut-crystal look to festive patterns, including serving platters, salad sets, cake sets, and punch bowls in many sizes, shapes and colors.

- *Ovenware.* Anchor offers various temperature-resistant glass ovenware products with popular patterns under the brand names Anchor Hocking®, Fire-King®, Essentials®, Premium Plus® and Jade-Ite™. Anchor offers glass lids for baking, plastic lids for storing, and easy-to-grip handles.
- *Storageware.* Anchor produces an extensive line of glass storageware products, including both colored and clear glass. These products are used to accent and organize the kitchen, bath or living room, with designs ranging from modern with cylindrical, stackable jars to "nostalgic" candy jars to festive seasonal jars.

II. Imports of Glassware and Tableware Have Increased Significantly

H.R. 3116 targets glass articles valued at over $5 each, many of which fall within the categories described above. Statistics show that imports of glass tableware, especially from China and Turkey, have increased significantly in recent years. Over the same period, U.S. manufacturers' market share has steadily declined. Lower labor costs and lower natural gas prices in countries such as China and Turkey allow manufacturers in those countries to undersell American manufacturers despite the impact of freight and existing tariffs. This threatens the ability of American manufacturers to reinvest in facilities and workers in the U.S.

The glassware industry is already experiencing significant competition from foreign competitors and imports in all glassware categories. In tariff subheading 7013.99.90, total imports have increased ***80%*** from 1996 to 2004, from approximately $62 million to approximately $112 million in imports. China, one of the glassware industry's biggest competitors, has increased its imports in this category by almost ***300%*** from 1996 to 2004, from approximately $8.6 million to $34.4 million in imports. China's increase in year-to-date imports for January to June 2004 to the same period in 2005 is an additional ***35.4%. This was achieved despite little investment in automated machine manufacturing. Between 2006 and 2008, it is estimated that two to three new fully automated tableware factories will come on line, adding significantly to China's export capacity.***

Turkey's imports (in dollars) in this category have increased ***130%*** from 1996 to 2004. Imports from Turkey (in dollars) have increased an additional ***63.5%*** from year-to-date 2004 to 2005. At this pace, even without changes to tariff rates, imports from China and Turkey will exceed Anchor's annual sales in three to five years. These increases are unsustainable in the current U.S. glass tableware market which is growing at less than 1% annually. These countries do not need additional help within this category to remain competitive.

Increases in these proportions also have a devastating affect on U.S. jobs. In 2003, the Glass Manufacturing Industry Council estimated a 30% decline in domestic glass plants from 1980 (232) to 2000 (166). Anchor Container Glass estimates that the number of glass container plants in the United States has been reduced from 98 to 55 (44%) in the last 15 years. Employment in this high-wage manufacturing sector was down 4.4% from April 2004–April 2005 (Source: Working For America Institute). From 1975–2000, the number of U.S. Glass Tableware Industry union memberships declined 47%. Almost all of Anchor's employees are unionized through the United Steelworker's Association.

Compounding this problem, the World Bank reports that China is set to emerge as the world's largest trading partner in the next 15 years. (Source: International Trade Daily). International Trade Daily also reports that China's exports continued to outpace imports in July 2005, bringing the total trade surplus for January to July 2005 to nearly $50 billion. China continues to export at an alarming pace. The availability of cheap labor and inexpensive natural gas, the two major inputs for glassmaking, also ensures more cost-efficient pricing.

III. The Glassware Industry Is Already the Target of Reduced And/Or Eliminated Tariffs Due To a Proliferation of Trade Negotiations.

As you know, the Doha Round is an ongoing round of multilateral negotiations of the World Trade Organization (WTO) designed to reduce barriers to global trade. The members of the WTO set a goal of completing the Round by the end of 2006. As part of the Doha Round, WTO members are negotiating improved market access and tariff reduction. A major component of the Doha Round, negotiations on non-agricultural market access (NAMA), involves tariffs affecting the glassware industry. USTR is also negotiating tariff reductions that affect the glassware industry in a variety of Free Trade Agreements (FTAs).

The U.S. government has historically treated glass tableware and dinnerware classified under HTS 7013 as import-sensitive products accorded preferential treatment. For example, under NAFTA, glassware received a 15-year phase-out period and some product categories were completely exempted from tariff reductions. Tariffs on other products were either eliminated immediately or phased out over 5–10

years. We are now told that the longest phase-out period possible will be 10 years. If true, this accelerated schedule will significantly impact our business.

Global Home Products hopes to secure longer phase-outs or product specific exemptions during the Doha Round and other FTA negotiations. Nevertheless, with tariff reductions looming on the horizon for this U.S. industry, it hardly needs accelerated reductions from miscellaneous tariff bills. Such reductions will chip away at our profit base even further, force reductions in capital spending for maintenance and equipment, lead to more lay-offs and potentially a plant closure. As it is, Anchor Glass sells some of its glassware and tableware below cost to remain competitive in this industry. In addition, Anchor Glass has had to lay-off more than 400 workers during the past three years, yet has been only marginally profitable during this period.

IV. Foreign Competitors Are Growing at an Alarming Rate

The U.S. Industry has several major foreign competitors. One of those competitors is Pasabahce, headquartered in Turkey. Pasabahce has grown enormously in recent years, and currently has over 13,000 employees and a broad product base. One of Pasabahce's stated goals is to increase its foreign sales—this statement is on the front page of its website. Our estimates show that Pasabahce has made the U.S. a major market focus. They are now competing aggressively in foodservice glassware sales, are adding a distribution center in the U.S. and currently supply glassware to Wal*Mart, Bed Bath and Beyond and Linens n' Things, three of the leading housewares retailers in the U.S. Another major competitor is Gibsons Overseas, headquartered in China. Gibsons has increased its size and breadth significantly over the last 3–5 years by adding glass beverageware, serveware and storage items to its exports. Gibsons, despite the increases achieved to date, have yet to gain major glassware placements at Wal*Mart, Bed Bath and Beyond, and other retailers. However, we believe this will occur in due course giving them a substantial increase in export volume in the next few years. These are only examples of the competition the U.S. glass industry is facing.

For these reasons, we strongly object to H.R. 3116. We believe that the elimination of the tariff on these glass items will result in a revenue loss for the United States and for the domestic glass manufacturing industry. For this reason, it also attracts controversy within the U.S. glass industry, as it will increase the likelihood of lost jobs and plant closings. Thank you for the opportunity to provide our opposition to this bill, and we look forward to your response.

George E. Hamilton
Chief Executive Officer

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

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Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
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On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its support for the following bills:

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H.R. 3309—To suspend temporarily the duty on nail clippers.
H.R. 3310—To suspend temporarily the duty on artificial flowers.
H.R. 3311—To suspend temporarily the duty on electrically operated pencil sharpeners.
H.R. 2477—To suspend, temporarily the duty on bicycle speedometers.
H.R. 2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-angle reflectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.
H.R. 2479—To suspend temporarily the duty on unicycles.
H.R. 2556—To suspend temporarily the duty on air freshener electric devices with warmer units.
H.R. 2557—To suspend temporarily the duty on air freshener electric devices.
H.R. 2817—To suspend temporarily the duty on certain basketballs.
H.R. 2818—To suspend temporarily the duty on certain leather basketballs.
H.R. 2819—To suspend temporarily the duty on certain rubber basketballs.
H.R. 2820—To suspend temporarily the duty on certain volleyballs.
H.R. 2821—To suspend temporarily the duty on certain synthetic basketballs.
H.R. 3033—To (1) provide duty-free treatment for certain educational devices; and (2) extend such treatment through December 31, 2008.
H.R. 3112—To suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.

H.R. 3113—To suspend temporarily the duty on certain cups, with or without saucers, of porcelain or china.
H.R. 3114—To suspend temporarily the duty on certain flags.
H.R. 3115—To suspend temporarily the duty on certain clocks.
H.R. 3116—To suspend temporarily the duty on certain glass articles.
H.R. 3117—To suspend temporarily the duty on certain glass articles of lead crystal.
H.R. 3118—To suspend temporarily the duty on certain music boxes.
H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
H.R. 3389—To suspend temporarily the duty on certain footwear for girls.
H.R. 3391—To suspend temporarily the duty on certain athletic footwear.
H.R. 3392—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—To suspend temporarily the duty on certain work footwear.
H.R. 3394—To suspend temporarily the duty on certain work footwear.
H.R. 3395—To suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

United States Association of Importers of Textiles and Apparel
New York, New York 10003
September 2, 2005

Chairman, Committee on Ways and Means
Chairman, Subcommittee on Trade
U.S. House of Representatives
1104 Longworth House Office Building
Washington, D.C. 20510

Dear Chairman Thomas and Chairman Shaw:

The U.S. Association of Importers of Textiles and Apparel strongly supports H.R. 3176, introduced by Rep. Jerry Weller, and urges its inclusion in the "Miscellaneous Tariff Bill." The legislation, "the CITA Transparency Act," would ensure that administrative actions and decisions on textile and apparel trade are conducted and arrived at openly and fairly. This legislation would clarify existing law, to ensure that the original intent of Congress is applied.

With the end of the international textile quota program, including the elimination of bilateral textile agreements and phase-out of restrictions under the World Trade Organization, it is absolutely appropriate that "Government in the Sunshine" rules

apply to the administrative processes applicable to trade in textile and apparel products, just as they apply to administrative proceedings for all other consumer goods.

Transparency in government is a fundamental right for American companies and American consumers, and a concept the United States seeks to spread to our trading partners. Transparency provides a guarantee that the public can provide comments and that the public knows in advance the process for government decision-making and action.

No one can argue that U.S. citizens and businesses should have adequate notice and opportunity to respond to government proposals. However standards and processes have long been the exception rather than the rule when it comes to actions by the inter-agency Committee for the Implementation of Textile Agreement (CITA). This inter-agency group was created under the Nixon Administration and consists of representatives from the Departments of State, Treasury, Labor and Commerce, and the Office of the U.S. Trade Representative. At the time of the creation of CITA, when there was an international system of quotas on textile and apparel products, and numerous bilateral negotiations of textile agreements, there may have been a legitimate basis for CITA to invoke a "foreign affairs" exception to the Administrative Procedures Act with respect to some matters before it.[1]Today, however, in 2005, there is no basis for any exemption other than under the terms applicable to all other government agencies.

It is totally appropriate that individuals and companies with business before CITA know in advance of government actions that could affect them, and that they are able to participate effectively in the administrative decision-making process. The efforts by CITA to continue to shield from public disclosure even day-to-day decisions and every meeting represent a throw-back to a time in American history when transparency was not the law of the land. Opening the procedures to public scrutiny will not eliminate the role of CITA, but merely bring its procedures into the twenty-first century.

The Administrative Procedure Act (APA), 5 U.S.C. § 552, was enacted by Congress to ensure that government operates openly and that all interested parties have advance notice of matters under consideration and a meaningful opportunity to participate in the decision-making process. The main purpose of Section 552(a)(1) is to assure that "administrative policies affecting individual rights and obligations be promulgated pursuant to certain procedures so as to avoid the inherently arbitrary nature of unpublished ad hoc determinations." The APA rightly imposes an affirmative duty upon the agencies to disclose to the public what they have been doing, or plan to do, or declare what they will do.

Disclosure, not secrecy, must be the dominant objective of all federal decision-making bodies, including CITA. Doing so will advance the basic purpose of the APA, to ensure an informed citizenry, which is vital to the functioning of a democratic society.

USA–ITA strongly urges enactment of this legislation as promptly as possible.

Laura E. Jones
Executive Director

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[1] In the past, CITA routinely asserted a "foreign policy" exemption to the APA, with respect to every action it takes, but that exemption applies only very narrowly to particular agency functions and not to an agency in total. *See Mast Indus., Inc. v. Regan,* 8 CIT 214, 596 F. Supp. 1567, 1581 (1984) ("Thus certain war and defense functions are exempted, but not the War or Navy Departments in the performance of their other functions.") (internal citation omitted). The exemption should not apply "merely because [agency functions] have impact beyond the borders of the United States." Id. at 1581. The exemption's purpose is "to allow more cautious and sensitive consideration of those matters which 'so affect relations with other Governments that, for example, public rulemaking provisions would provoke definitely undesirable international consequences.'" *American Ass'n of Exporters and Importers-Textile and Apparel Group ("AAEI")* v. *United States,* 751 F.2d 1239, 1249 (Fed. Cir. 1985) (quoting H.R. 1980, 69th Cong., 2d Sess. 23 (1946)).

Clariant Corporation
Coventry, Rhode Island 02816
August 22, 2005

The Honorable E. Clay Shaw, Jr
Committee on Ways and Means
1102 LHOB
U.S. House of Representatives
Washington, DC

Dear Chairman Shaw,

I am writing on behalf of the Textile, Leather, Paper Division of Clariant Corporation to object to the suspension of duty on the substance identified in H.R. 3287, introduced by Representative Castle. H.R. 3287 proposes to suspend the duty on pro-jet cyan 1 RO feed and pro-jet cyan OF 1 RO feed.

The requested duty suspension covers Direct Blue 199, which Clariant synthesizes in its Martin, SC facility, competing directly with the compound for which duty suspension is being requested.

Clariant is a major manufacturer of specialty chemicals, including dyes, and employs approximately 180 people in the Martin, SC plant.

Clariant opposes the granting of temporary duty suspension for the compound named in H.R. 3287.

Sincerely,

Dan Packer
Director of Technical Development

Clariant Corporation
Coventry, Rhode Island 02816
August 22, 2005

The Honorable E. Clay Shaw, Jr
Committee on Ways and Means
1102 LHOB
U.S. House of Representatives
Washington, DC

Dear Chairman Shaw,

I am writing on behalf of the Textile, Leather, Paper Division of Clariant Corporation to object to the suspension of duty on the substance identified in H.R. 3289, introduced by Representative Castle. H.R. 3289 proposes to suspend the duty on pro-jet yellow 1G stage.

The requested duty suspension covers Direct Yellow 44, which Clariant makes in its Martin, SC facility, competing directly with the compound for which duty suspension is being requested.

Clariant is a major manufacturer of specialty chemicals, including dyes, and employs approximately 180 people in the Martin, SC plant.

Clariant opposes the granting of temporary duty suspension for the compound named in H.R. 3289.

Sincerely,

Dan Packer
Director of Technical Development

ATF, Inc.
Lincolnwood, Illinois 60712
September 2, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
House Ways & Means Committee
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of ATF Inc., I am writing in support of the inclusion of H.R. 3303 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 3303 would suspend temporarily the deposit requirements and assessments of countervailing duties and antidumping duties on imports of Cold Heading Quality (CHQ) wire rod. This suspension is necessary for U.S. fastener manufacturers like my company to remain globally competitive.

ATF Inc. manufactures metal threaded fasteners used in the automotive sector. We employ roughly 270 people at our facilities in Lincolnwood, IL and Kenosha, WI. Like much of America's manufacturing sector, ATF has met global challenges head on, but the countervailing duty and antidumping order in place on CHQ wire rod makes that difficult at best, and impossible at worst.

The fasteners we produce for our customers require CHQ wire rod because of customer specifications and/or because it provides the chemistry and quality of steel necessary to meet critical requirements. It is so special that our industry, combined with customer and supplier input created a consensus standard, ASTM F2282.

Because of the duties imposed on CHQ wire rod, ATF is forced to pay a premium for the CHQ we need at a time when we are fighting all other battles of manufacturing competitiveness. H.R. 3303 would allow us a fair opportunity to obtain the raw material we need at a global price.

Don Cunningham
President

Federal Screw Works
St. Clair Shores, Michigan 48080
August 31, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
House Ways & Means Committee
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf Federal Screw Works, I am writing in support of the inclusion of H.R. 3303 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 3303 would suspend temporarily the deposit requirements and assessments of countervailing duties and antidumping duties on imports of Cold Heading Quality (CHQ) wire rod. This suspension is necessary for U.S. fastener manufacturers like my company to remain globally competitive.

Federal Screw Works manufactures metal threaded fasteners used primarily in automotive original equipment applications. We employ 350 people at our five facilities in Michigan. Like much of America's manufacturing sector, Federal Screw Works has met global challenges head on, but the countervailing duty and antidumping order in place on CHQ wire rod makes that difficult at best, and impossible at worst.

The fasteners we produce for our customers require CHQ wire rod because it provides the chemistry and quality of steel necessary to meet critical requirements. It is so special that our industry, combined with customer and supplier input created a consensus standard, ASTM F2282.

Because of the duties imposed on CHQ wire rod, Federal Screw Works is forced to pay a premium for the CHQ we need at a time when we are fighting other global battles for manufacturing survival. H.R. 3303 would allow us a fair chance to obtain the raw material we need at a globally competitive price.

Thank you for your consideration of this matter.

John O'Brien
Vice President
Sales and Marketing

Illinois Tool Works Inc.
Glenview, Illinois 60025
September 2, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
House Ways & Means Committee
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of Illinois Tool Works (ITW), I am writing in support of the inclusion of H.R. 3303 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 3303 would suspend temporarily the deposit requirements and assessments of countervailing duties and antidumping duties on imports of Cold Heading Quality (CHQ) wire rod. This suspension is necessary for U.S. fastener manufacturers like my company to remain globally competitive.

ITW manufactures metal threaded fasteners used in industrial applications, including safety-critical parts for the automotive industry. We employ more than 800 people in facilities in Wisconsin, Kentucky, Ohio and Illinois. Like much of America's manufacturing sector, ITW has met global challenges head on, but the countervailing duty and antidumping order in place on CHQ wire rod makes that difficult at best, and impossible at worst.

The fasteners we produce for our customers require CHQ wire rod because of customer specifications and/or because it provides the chemistry and quality of steel necessary to meet critical requirements. It is so special that our industry, combined with customer and supplier input created a consensus standard, ASTM F2282.

Because of the duties imposed on CHQ wire rod, ITW is forced to pay a premium for the CHQ we need at a time when we are fighting all other battles of manufacturing competitiveness. H.R. 3303 would allow us a fair opportunity to obtain the raw material we need at a global price.

Michael J. Lynch
Vice President

Industrial Fasteners Institute
Cleveland, Ohio 44114
September 2, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
House Ways & Means Committee
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Industrial Fasteners Institute (IFI), I am writing in support of the inclusion of H.R. 3303 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 3303 would suspend temporarily the deposit requirements and assessments of countervailing duties and antidumping duties on imports of Cold Heading Quality (CHQ) wire rod. This suspension is necessary for U.S. fastener manufacturers to remain globally competitive.

IFI represents America's producers of metal threaded fasteners, particularly those used in critical applications such as aerospace, automotive and other industrial sectors. Like much of America's manufacturing sector, the fastener industry has met global challenges head on, but they are finding it more and more difficult to compete globally due to the inappropriate application of dumping duties on CHQ. Congress can correct this situation by passage of H.R. 3303.

Many of IFI's members produce threaded metal fasteners from CHQ wire rod, a unique product with specific chemical and strength properties necessary to meet our customers' requirements. CHQ is so unique that our industry, combined with customer and supplier input, created a consensus standard, ASTM F2282, to differentiate CHQ from industrial quality wire rod.

In 2001, some domestic producers of industrial quality wire rod brought a dumping suit against several foreign producers. The suit encompassed all wire rod, including CHQ. The only two U.S. producers of CHQ at the time declined to participate in the case. Despite our best efforts to demonstrate that CHQ was a separate, distinct product that was in short supply in the U.S., the International Trade Commission (ITC) declined to exclude CHQ from the scope of the order.

Since the imposition of the duties on all wire rod, including CHQ, the number of domestic fastener producers has continued to fall as has the demand. The remaining U.S. producer of CHQ, Charter Steel, does not produce CHQ in sufficient quantity to meet demand, forcing domestic fastener producers to purchase CHQ offshore and at a premium price.

As a result, many domestic fastener producers are forced to pay a premium for CHQ because of the nature of the product, and an additional premium in the form of the antidumping duties paid to companies who do not make the product in the first place.

H.R. 3303 will allow a temporary reprieve from this unfair situation until the ITC has a chance to review the case in its five-year sunset review process in 2007. IFI urges you to include H.R. 3303 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills.

Robert J. Harris
Managing Director

MacLean-Fogg Company
Mundelein, IL 60050
September 1, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
House Ways & Means Committee
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of MacLean-Fogg Company, I am writing in support of the inclusion of H.R. 3303 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 3303 would suspend temporarily the deposit requirements and assessments of countervailing duties and antidumping duties on imports of Cold Heading Quality (CHQ) wire rod. This suspension is necessary for U.S. fastener manufacturers like my company to remain globally competitive.

MacLean-Fogg manufactures metal threaded fasteners used in industrial applications such as the aerospace and automotive sectors. We employ over 2000 people at our facilities in the United States. Like much of America's manufacturing sector, MacLean-Fogg has met global challenges head on, but the countervailing duty and antidumping order in place on CHQ wire rod makes that difficult at best, and impossible at worst.

The fasteners we produce for our customers require CHQ wire rod because of customer specifications and/or because it provides the chemistry and quality of steel necessary to meet critical requirements. It is so special that our industry, combined with customer and supplier input created a consensus standard, ASTM F2282.

Chairman Shaw, because of the duties imposed on CHQ wire rod, MacLean-Fogg is forced to pay a premium for the CHQ wire rod we need at a time when we are fighting all other battles of manufacturing competitiveness. H.R. 3303 would allow us a fair opportunity to obtain the raw material we need at a global price.

Respectfully,

Timothy N. Taylor
President

Seaway Bolt & Specials Corp.
Columbia Station, Ohio 44028
September 2, 2005

The Honorable E. Clay Shaw
Chairman
Subcommittee on Trade
House Ways & Means Committee
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of Seaway Bolt & Specials Corp., I am writing in support of the inclusion of H.R. 3303 in the Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills. H.R. 3303 would suspend temporarily the deposit requirements and assessments of countervailing duties and antidumping duties on imports of Cold Heading Quality (CHQ) wire rod. This suspension is necessary for U.S. fastener manufacturers like my company to remain globally competitive.

Seaway Bolt & Specials Corp. manufactures metal threaded fasteners used in industrial applications such as the aerospace and automotive sectors. We employ 75 people at our facility in Cleveland, Ohio. Like much of America's manufacturing sector, Seaway Bolt & Specials Corp. has met global challenges head on, but the countervailing duty and antidumping order in place on CHQ wire rod makes that difficult at best, and impossible at worst.

The fasteners we produce for our customers require CHQ wire rod because of customer specifications and/or because it provides the chemistry and quality of steel necessary to meet critical requirements. It is so special that our industry, combined with customer and supplier input created a consensus standard, ASTM F2282.

Because of the duties imposed on CHQ wire rod, Seaway Bolt & Specials Corp. is forced to pay a premium for the CHQ we need at a time when we are fighting all other battles of manufacturing competitiveness. H.R. 3303 would allow us a fair opportunity to obtain the raw material we need at a global price.

Raymond L. Gurnick
President

Statement of Paul C. Rosenthal, Wire Rod Producers Coalition

The Wire Rod Producers Coalition, domestic producers of carbon and alloy steel wire rod ("CASWR"), strongly opposes efforts to legislatively suspend the collection of antidumping and countervailing duty deposits and assessments on certain cold heading quality ("CHQ") wire rod made to ASTM F2882 for use in making certain fasteners. The Wire Rod Producers Coalition includes ISG Georgetown Inc., of Georgetown, South Carolina; Keystone Consolidated Industries of Peoria, Illinois and Dallas, Texas; and Gerdau Ameristeel, with facilities in Florida, New Jersey, Pennsylvania, Kentucky, Texas and Tennessee. This bill, H.R. 3303, was introduced by Representative Kirk (R–IL).

The domestic CASWR industry strongly opposes the bill or its inclusion in any miscellaneous tariff legislation. Any attempt to legislatively exclude certain products from antidumping or countervailing duty orders is by its very nature controversial because the imports of such products have been found to contribute to the material injury of the domestic industry producing them. The proper place to seek an exclusion from the scope of an order is before the United States Department of Commerce, the agency with expertise in such matters. To the knowledge of the domestic industry, no party has attempted to seek such an exclusion before the Department of Commerce. Moreover, the United States International Trade Commission has already determined that the domestic industry produces CHQ wire rod and found that imports of dumped and/or subsidized wire rod, including CHQ wire rod, from Brazil, Canada, Indonesia, Mexico, Moldova, Trinidad & Tobago, and Ukraine were causing material injury to the domestic wire rod industry. A legislative exclusion for these products is inappropriate, would be harmful to the domestic wire rod industry, and would be highly controversial.

BACKGROUND

On August 31, 2001, members of the Wire Rod Producers Coalition filed antidumping and countervailing duty petitions against a unfairly traded CASWR from

a number of countries. The United States International Trade Commission found that the domestic wire rod industry was being materially injured by dumped and subsidized imports from various countries. In late 2002, antidumping duty orders were entered against dumped CASWR from Brazil, Canada, Germany, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine. Countervailing duty orders were entered against CASWR from Brazil and Canada. The countervailing duty order against Canada was later withdrawn.

The Department of Commerce has administrative procedures for considering amendments to the scope of antidumping and countervailing duty orders. A number of requests to modify the scope of the orders were considered and rejected by the Commerce Department. *See, e.g., 3Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Carbon and Certain Alloy Steel Wire Rod from Brazil, 67 Fed. Reg. 55,805 (August 30, 2002).* No party has requested an exemption for CHQ wire rod at the Commerce Department. The domestic industry did grant scope exclusion requests for certain grade 1080 tire bead quality and certain grade 1080 tire cord quality wire rod. *Id.* This demonstrates that the domestic industry is willing to consider reasonable requests for scope exclusions when circumstances warrant it. No such request had been made to the domestic industry for CHQ wire rod made to ASTM F2882 for use in making certain fasteners.

CHQ quality wire rod is produced extensively by the domestic wire rod industry. *See Carbon and Certain Alloy Steel Wire Rod From Brazil, Canada, Germany, Indonesia, Mexico, Moldova, Trinidad and Tobago, Turkey and Ukraine,* Inv. Nos. 701–TA-417–421 and 731–TA-953, 954, 9560959, 961 and 962 (Final), USITC Pub. 3546 at 11 (Oct. 2002). The International Trade Commission found no reason to separate this product from other wire rod products produced by the domestic industry when reaching its determination that such wire rod imports were a cause of material industry to the domestic industry. *Id.*

REASONS FOR DOMESTIC INDUSTRY OPPOSITION TO THE EXCLUSION

The domestic wire rod industry strongly opposes any such legislative exclusion to the antidumping and countervailing duty orders because there are appropriate administrative procedures through which to seek such exclusions which have not been followed in this case. The proper place for determining exclusions should be with the agencies that enforce the trade laws. Any attempt to undermine the efficacy of specific countervailing duty and antidumping duty orders legislatively, particularly without having first sought available administrative remedies, is *per se* controversial.

The Commerce Department has an administrative procedure known as a "changed circumstance review" that would permit purchasers to seek an administrative exclusion to the antidumping and countervailing duty orders if the facts warrant such an exclusion. To grant a legislative exclusion would undermine the administrative process and lead to other attempts to weaken these antidumping and countervailing duty orders by legislatively excluding other products that the domestic industry can produce.

An exclusion for CHQ wire rod will undermine the intended relief to the domestic CASWR industry that the existing antidumping and countervailing duty orders are providing and permit unfairly traded imports to enter the United States, unencumbered by the discipline of the orders. Prior to the antidumping orders, the domestic industry had undergone five straight years of operating losses and a raft of plant closure and bankruptcies caused by unfairly traded imports. Absent these orders, the condition of the domestic industry would have continued to decline, particularly in the difficult economy characterized today by increasing costs. CHQ wire rod was expressly included in the categories of imported wire rod that were found to be causing material injury to the United States wire rod industry.

CHQ wire rod is a product that can be and is produced domestically. The United States International Trade Commission identified at least five domestic producers of CHQ wire rod. *See* USITC Pub. 3546 at 11. There is no evidence of a shortage of such material. To grant the legislative exclusion proposed will undermine the efforts of domestic producers to produce and market this product and will undercut the capital investments that have been made and are being made by the domestic industry to produce CASWR products. A legislative exclusion will remove any incentive for purchasers to develop domestic suppliers for this product.

Consumers of CHQ wire rod are not precluded from purchasing imported products if an exclusion from the antidumping and countervailing duty orders is not granted. The antidumping and countervailing duty orders do not cover all import sources (they exclude major European and Japanese producers for example), nor do they create quotas. Purchasers have the choice of purchasing such products from domes-

tic producers, from foreign producers not subject to the order, or from producers subject to the orders at fair market prices (*i.e.*, with the payment of antidumping and/or countervailing duties).

Exclusions to antidumping and countervailing duty orders should be addressed on a case-bay-case basis at the agencies that enforce those laws. This bill, and the undermining of the antidumping and countervailing duty orders on CASWR (and indeed on the antidumping and countervailing duty laws themselves) that it will engender, is highly controversial and should not be the subject of miscellaneous tariff legislation.

For further information please contact Paul Rosenthal (202.342.8486), Alan Luberda (202.342.8835) or Dana Wood (202.342.8608) of Collier Shannon Scott, LLP.

Retail Industry Leaders Association
Arlington, Virginia 22209
September 2, 2005

The Honorable E. Clay Shaw
Chairman
House Ways & Means Trade Subcommittee
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Retail Industry Leaders Association (RILA), we welcome the opportunity to submit comments on technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. There are several provisions that RILA strongly supports or opposes in the list of potential bills to be included in the Miscellaneous Trade Bill.

By way of background, RILA is an alliance of the world's most successful and innovative retailer and supplier companies—the leaders of the retail industry. RILA members represent almost $1.4 trillion in sales annually and operate more than 100,000 stores, manufacturing facilities and distribution centers nationwide. Its member retailers and suppliers have facilities in all 50 states, as well as internationally, and employ millions of workers domestically and worldwide. Through RILA, leaders in the critical disciplines of the retail industry work together to improve their businesses and the industry as a whole.

H.R. 1121—A bill to repeal section 754 of the Tariff Act of 1930

RILA strongly supports the inclusion of H.R. 1121 in the Miscellaneous Trade and Tariff bill. Repeal of the "Byrd Amendment" is a top priority for RILA and its members. The Byrd Amendment annually funnels money collected from antidumping and countervailing duty cases directly to companies that file petitions. These payouts create a perverse incentive for companies to file petitions and add an increasing number of product categories to those petitions in hopes of collecting a financial windfall. In addition, the presence of the Byrd Amendment impedes the settlement of trade cases because of the financial incentive given to the petitioners.

Since enactment of the amendment, the number of antidumping petitions filed on consumer ready products has increased. As a result of the amendment, more than $1 billion has been distributed to domestic petitioners with no strings attached and with no measurable increase to competitiveness. Repeal would not affect the operation of antidumping and countervailing duty laws, but would remove the perverse incentive to file cases and would keep revenue collected in the government treasury to be spent in a more appropriate way. Congress should support "fair-trade" that creates a level playing field for everyone, not just import-sensitive domestic industries.

In January 2003, the World Trade Organization Appellate Body affirmed an earlier ruling that the "Byrd Amendment" was a violation of U.S. WTO obligations. The U.S. should live up to its international obligations. The U.S. is now facing retaliatory tariffs from several countries on a wide range of products for not repealing the Byrd Amendment. In a time when export trade is so important to our economy, unnecessary duties stifle exports and cause widespread layoffs while corporate subsidies do nothing to enhance the competitiveness of domestic industries.

Consumers are the real losers in this process. By encouraging protectionist behavior, the Byrd Amendment drives up prices for American consumer by encouraging trade defense actions that can increase the cost of consumer goods. The taxpayer funds distributed as a result of the law could be better used for other purposes.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture

RILA strongly opposes this bill. Such a labeling provision is unnecessary and adds additional burdens and costs to importers and retailers. Under section 304 of the Tariff Act of 1930, imported home furniture is already required to have a permanent country of origin marking. We do not believe an additional labeling requirement is useful or appropriate.

Duty Suspension Bills

RILA supports the following duty suspension bills:

H.R. 3308—A bill to suspend temporarily the duty on erasers.
H.R. 3309—A bill to suspend temporarily the duty on nail clippers.
H.R. 3310—A bill to suspend temporarily the duty on artificial flowers.
H.R. 3311—A bill to suspend temporarily the duty on electric pencil sharpeners.

We believe that these products are not made in the United States in commercial quantities sufficient to satisfy RILA members and their customers. As well, the duty on these products averages less than 5%.

RILA also supports the following footwear duty suspension bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3388—A bill to suspend temporarily the duty on certain women's footwear.
H.R. 3389—A bill to suspend temporarily the duty on certain footwear for girls.
H.R. 3390—A bill to suspend temporarily the duty on certain protective footwear.
H.R. 3391—A bill to suspend temporarily the duty on certain athletic footwear.
H.R. 3392—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—A bill to suspend temporarily the duty on certain work footwear.
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Washington, DC 20004–1601
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Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

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September 2, 2005

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H.R. 1121—A bill to repeal section 754 of the Tariff Act of 1930

RILA strongly supports the inclusion of H.R. 1121 in the Miscellaneous Trade and Tariff bill. Repeal of the "Byrd Amendment" is a top priority for RILA and its members. The Byrd Amendment annually funnels money collected from antidumping and countervailing duty cases directly to companies that file petitions. These payouts create a perverse incentive for companies to file petitions and add an increasing number of product categories to those petitions in hopes of collecting a financial windfall. In addition, the presence of the Byrd Amendment impedes the settlement of trade cases because of the financial incentive given to the petitioners.

Since enactment of the amendment, the number of antidumping petitions filed on consumer ready products has increased. As a result of the amendment, more than $1 billion has been distributed to domestic petitioners with no strings attached and with no measurable increase to competitiveness. Repeal would not affect the operation of antidumping and countervailing duty laws, but would remove the perverse incentive to file cases and would keep revenue collected in the government treasury to be spent in a more appropriate way. Congress should support "fair-trade" that creates a level playing field for everyone, not just import-sensitive domestic industries.

In January 2003, the World Trade Organization Appellate Body affirmed an earlier ruling that the "Byrd Amendment" was a violation of U.S. WTO obligations. The U.S. should live up to its international obligations. The U.S. is now facing retaliatory tariffs from several countries on a wide range of products for not repealing the Byrd Amendment. In a time when export trade is so important to our economy, unnecessary duties stifle exports and cause widespread layoffs while corporate subsidies do nothing to enhance the competitiveness of domestic industries.

Consumers are the real losers in this process. By encouraging protectionist behavior, the Byrd Amendment drives up prices for American consumer by encouraging trade defense actions that can increase the cost of consumer goods. The taxpayer funds distributed as a result of the law could be better used for other purposes.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture

RILA strongly opposes this bill. Such a labeling provision is unnecessary and adds additional burdens and costs to importers and retailers. Under section 304 of the Tariff Act of 1930, imported home furniture is already required to have a permanent country of origin marking. We do not believe an additional labeling requirement is useful or appropriate.

Duty Suspension Bills

RILA supports the following duty suspension bills:

H.R. 3308—A bill to suspend temporarily the duty on erasers.
H.R. 3309—A bill to suspend temporarily the duty on nail clippers.
H.R. 3310—A bill to suspend temporarily the duty on artificial flowers.
H.R. 3311—A bill to suspend temporarily the duty on electric pencil sharpeners.

We believe that these products are not made in the United States in commercial quantities sufficient to satisfy RILA members and their customers. As well, the duty on these products averages less than 5%.

RILA also supports the following footwear duty suspension bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3388—A bill to suspend temporarily the duty on certain women's footwear.
H.R. 3389—A bill to suspend temporarily the duty on certain footwear for girls.
H.R. 3390—A bill to suspend temporarily the duty on certain protective footwear.
H.R. 3391—A bill to suspend temporarily the duty on certain athletic footwear.
H.R. 3392—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3394—A bill to suspend temporarily the duty on certain work footwear.

H.R. 3395—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Production of footwear in the United States has significantly declined over the last 20 years. Footwear manufacturers in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes

As a result, most of the current footwear duties are out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The footwear duty suspension bills being considered would eliminate the duties on several types of footwear, but will not affect the few remaining sensitive footwear categories which are still produced in the United States.

Eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

Conclusion

Thank you for the opportunity to submit comments on the Miscellaneous Trade and Tariff bill. If you have any questions, please contact Lori Denham, RILA's Senior Vice President for Policy and Planning or Jonathan Gold, RILA's Vice President Global Supply Chain Policy.

Sincerely,

Sandra L. Kennedy
President

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its support for the following bills:

H.R. 3308—To suspend temporarily the duty on erasers.
H.R. 3309—To suspend temporarily the duty on nail clippers.
H.R. 3310—To suspend temporarily the duty on artificial flowers.
H.R. 3311—To suspend temporarily the duty on electrically operated pencil sharpeners.
H.R. 2477—To suspend, temporarily the duty on bicycle speedometers.
H.R. 2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-angle reflectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.

H.R. 2479—To suspend temporarily the duty on unicycles.
H.R. 2556—To suspend temporarily the duty on air freshener electric devices with warmer units.
H.R. 2557—To suspend temporarily the duty on air freshener electric devices.
H.R. 2817—To suspend temporarily the duty on certain basketballs.
H.R. 2818—To suspend temporarily the duty on certain leather basketballs.
H.R. 2819—To suspend temporarily the duty on certain rubber basketballs.
H.R. 2820—To suspend temporarily the duty on certain volleyballs.
H.R. 2821—To suspend temporarily the duty on certain synthetic basketballs.
H.R. 3033—To (1) provide duty-free treatment for certain educational devices; and (2) extend such treatment through December 31, 2008.
H.R. 3112—To suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
H.R. 3113—To suspend temporarily the duty on certain cups, with or without saucers, of porcelain or china.
H.R. 3114—To suspend temporarily the duty on certain flags.
H.R. 3115—To suspend temporarily the duty on certain clocks.
H.R. 3116—To suspend temporarily the duty on certain glass articles.
H.R. 3117—To suspend temporarily the duty on certain glass articles of lead crystal.
H.R. 3118—To suspend temporarily the duty on certain music boxes.
H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
H.R. 3389—To suspend temporarily the duty on certain footwear for girls.
H.R. 3391—To suspend temporarily the duty on certain athletic footwear.
H.R. 3392—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—To suspend temporarily the duty on certain work footwear.
H.R. 3394—To suspend temporarily the duty on certain work footwear.
H.R. 3395—To suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
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H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

Charter Brokerage Corporation
Houston, Texas 77084
August 26, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of Charter Brokerage Corporation, regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 3353. We support the inclusion of HR 3353 into this Congress' Miscellaneous Trade Package.

With respect to the above referenced bill, the need for the liquidation or reliquidation of the drawback claims set forth therein are due to the U.S. Custom Service misapplying the retroactive effect of the statutory changes made to the Miscellaneous Trade and Technical Corrections Act of 1999 (P.L. 106–36).

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

Bobby Waid
Executive Vice President

Chevron USA, Inc.
San Ramon, California 94583
September 2, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of Chevron USA, Inc., regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 3353. We support the inclusion of HR 3353 into this Congress' Miscellaneous Trade Package.

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Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

Sincerely,

Ken Kleier

DANZAS AEI Drawback Services
Houston, Texas 77084
August 26, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of DANZAS

AEI Drawback Services, regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 3353. We support the inclusion of HR 3353 into this Congress' Miscellaneous Trade Package.

Although the companies involved in this bill are former clients, we feel this legislation clearly will right a wrong and provide for proper liquidation or reliquidation of the drawback claims set forth therein.

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

J.W. Brown

Charter Brokerage Corporation
Houston, Texas 77084
August 25, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

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August 26, 2005

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1106 Longworth House Office Building
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Although the companies involved in this bill are former clients, we feel this legislation clearly will right a wrong and provide for proper liquidation or reliquidation of the drawback claims set forth therein.

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

J.W. Brown

Charter Brokerage Corporation
Houston, Texas 77084
August 26, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of Charter Brokerage Corporation, regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 3355. We support the inclusion of HR 3355 into this Congress' Miscellaneous Trade Package.

With respect to the above referenced bill, the need for the liquidation or reliquidation of the drawback claims set forth therein are due to the U.S. Custom Service misapplying the retroactive effect of the statutory changes made to the Miscellaneous Trade and Technical Corrections Act of 1999 (P.L. 106–36).

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San Ramon, California 94583
September 2, 2005

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Committee on Ways and Means
1106 Longworth House Office Building
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set forth in HR 3355. We support the inclusion of HR 3355 into this Congress' Miscellaneous Trade Package.

With respect to the above referenced bill, the need for the liquidation or reliquidation of the drawback claims set forth therein are due to the U.S. Custom Service misapplying the retroactive effect of the statutory changes made to the Miscellaneous Trade and Technical Corrections Act of 1999 (P.L. 106–36).

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

Sincerely,

Ken Kleier

DANZAS AEI Drawback Services
Houston, Texas 77084
August 26, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of DANZAS AEI Drawback Services, regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 3355. We support the inclusion of HR 3355 into this Congress' Miscellaneous Trade Package.

Although the companies involved in this bill are former clients, we feel this legislation clearly will right a wrong and provide for proper liquidation or reliquidation of the drawback claims set forth therein.

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

J.W. Brown

DANZAS AEI Drawback Services
Houston, Texas 77084
August 25, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of DANZAS AEI Drawback Services, regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 3356. We support the inclusion of HR 3356 into this Congress' Miscellaneous Trade Package.

Although the companies involved in this bill are former clients, we feel this legislation clearly will right a wrong and provide for proper liquidation or reliquidation of the drawback claims set forth therein.

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

J.W. Brown

Charter Brokerage Corporation
Houston, Texas 77084
August 25, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of Charter Brokerage Corporation, regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 3356. We support the inclusion of HR 3356 into this Congress' Miscellaneous Trade Package.

With respect to the above referenced bill, the need for the liquidation or reliquidation of the drawback claims set forth therein are due to the U.S. Custom Service misapplying the retroactive effect of the statutory changes made to the Miscellaneous Trade and Technical Corrections Act of 1999 (P.L. 106–36).

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

Bobby Waid
Executive Vice President

Charter Brokerage Corporation
Houston, Texas 77084
August 25, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of Charter Brokerage Corporation, regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 3357. We support the inclusion of HR 3357 into this Congress' Miscellaneous Trade Package.

With respect to the above referenced bill, the need for the liquidation or reliquidation of the drawback claims set forth therein are due to the U.S. Custom Service misapplying the retroactive effect of the statutory changes made to the Miscellaneous Trade and Technical Corrections Act of 1999 (P.L. 106–36).

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

Bobby Waid
Executive Vice President

DANZAS AEI Drawback Services
Houston, Texas 77084
August 26, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of DANZAS

AEI Drawback Services, regarding the liquidation or reliquidation of certain drawback claims as set forth in HR 3357. We support the inclusion of HR 3357 into this Congress' Miscellaneous Trade Package.

Although the companies involved in this bill are former clients, we feel this legislation clearly will right a wrong and provide for proper liquidation or reliquidation of the drawback claims set forth therein.

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

J.W. Brown

Statement of Hallock Northcott, American Association of Exporters & Importers

On behalf of the members of the American Association of Exporters and Importers (AAEI), I write in support of H.R. 3363, amending the Tariff Act of 1930(the Act).

From the vantage point of the U.S. manufacturing and export community, H.R. 3363 would make badly-needed practical and substantive modifications to the provisions of the Act relating to drawback claims.

As you well know, drawback has long played an important role in the promotion of U.S. exports and will, we believe, contribute significantly in the future. Enabling American businesses to continue to compete and prosper in the 21st century's global economy requires that our trade laws must take notice of and evolve with the changing nature of such commerce. The provisions of H.R. 3363 would make an important contribution to this, and would, in the near term and over time dramatically increase welcome relief to U.S. exporters.

As you know, the purpose of the drawback law is to reduce duties paid on imports that are subsequently exported or processed and then exported. Its purpose has always been vital in allowing American business and labor to compete more effectively in foreign markets by assuring that whatever enters into the cost of doing business in such markets is free from the additional cost of U.S. Customs duties. As a result, U.S. export trade is facilitated; the balance of trade is improved; jobs are created; and consequently the general economy benefits. To this end, the drawback law should be construed to most efficiently accomplish the purpose intended.

H.R. 3363 is consistent with the national economic and trade policy purpose and spirit of the drawback law as noted above, and AAEI fully supports the proposed improvements to the current drawback law. The amendments are the result of several years of discussion between members of the drawback trade, AAEI representatives and CBP, under the auspices of the Trade Support Network, resulting in a drawback consensus document. The drawback consensus document, which outlined the areas of agreement between CBP and the drawback trade community, is incorporated within statutory language as H.R. 3363.

AAEI believes that the following highlights reflect the major positive changes in the drawback law and the advantages of those changes to both CBP and the drawback trade community:

1. The new statute would make drawback more available to any size U.S. company. This represents a dramatic improvement over the current process, where burdensome administrative requirements make drawback a cost-effective option for only a portion of those companies that are eligible to receive it. Because of the complex nature of the current drawback program, many U.S. companies that are our members cannot afford to take advantage of the drawback program. The simplified process, reduced time frames and objective standards of the new statute would give exporters the opportunity to reduce their costs by obtaining drawback refunds, thus making them more competitive in the global marketplace.
2. A corollary benefit is the handling of substitution. The basic drawback concepts of substitution, i.e., same kind and quality and commercial interchangeability, as well as the numerous types of drawback will be condensed into the globally accepted standard of the Harmonized Tariff Schedule of the United States to an eight-digit level. This is a substantial advancement, as drawback will be based on an objective standard that would eliminate the need for subjective interpretation. This change alone will save considerable administrative costs for CBP and should minimize the need for drawback claimants to pursue drawback issues in the courts.

3. The drawback statute will fully integrate the drawback process into CBP's Automated Commercial Environment (ACE). ACE is the most wide-ranging government trade facilitation program now underway and is anticipated to have a significant impact on trade compliance practices. In this regard, the drawback claim filing process will be automated, thereby relieving CBP of an administrative burden and simplifying record keeping and claim filing for drawback claimants. Edits and checks on a drawback claim will be handled electronically by hitting the drawback claim data against data in CBP's new Automated Commercial Environment.
4. The drawback statute will eliminate the need for rulings and approvals prior to filing claims. This will eliminate the long wait time (approximately six to 12 months) between requesting approval for drawback and filing the first claim thus allowing drawback claimants to receive refunds quicker.
5. Under the new statute, time frames will be simplified so the drawback process will take place in an inclusive five-year time frame. This will reduce the recordkeeping time frames for drawback records and alleviate the recordkeeping burden on both CBP and the drawback claimant.

With H.R. 3363 as an essential base, we suggest the committee review the following areas to explore opportunities that would better meet the intent and purpose of the drawback law:

1. Both NAFTA and the Chile FTA restrict drawback making it difficult for drawback claimants to claim drawback and for CBP to administer the drawback claims for exports to these areas. We feel that some relief for the drawback claimants and CBP can be given by applying the eight-digit HTSUS substitution concept to NAFTA and the Chile FTA. We believe there is allowance for this in the FTA language. The appropriate area to address this concern, we believe, is Subsection (e) concerning refunds, waivers, or reductions under certain free trade agreements.
2. Destruction in lieu of export is existent in the current drawback statute for all types of drawback. The new statute restricts the use of destruction to only those items that can be traced to the entry on which they were entered. This methodology is extremely cumbersome for the trade to manage. Destruction drawback under the new statute should at least equal destruction drawback under the existing statute. Subsection (j) concerning destruction in lieu of export, is recommended for examination as it addresses this aspect.
3. Based on bonding for drawback payments, it is the drawback claimant and claimant's surety that are liable, not the importer. Accordingly, we suggest that Subsection (b)(3) on liability does not need to be included in the statute.

In conclusion, as the committee continues to examine and pursue courses of action to remove restrictive trade barriers and to communicate these actions to the public, we look forward to the creation of a detailed legislative history to accompany H.R. 3363.

We appreciate the opportunity to comment on H.R. 3363.

American Petroleum Institute
Washington, DC 20005
August 29, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Mr. Chairman:

The American Petroleum Institute (API) represents over 400 companies involved in all aspects of the oil and gas industry, including exploration, production, transportation, refining, and marketing. API strongly supports the proposed miscellaneous corrections to trade legislation as described in your advisory from the Committee on Ways and Means, Subcommittee on Trade, dated July 25, specificallyH.R. 3363, which is under consideration for inclusion in a Miscellaneous Tariff and Duty Suspension package.

The legislative changes proposed under H.R. 3363, have the support of U.S. industry, specifically domestic manufacturers and exporters in numerous market sectors, and is a complete rewrite of the drawback statute, 19 USC § 1313. This legislation

will substantially ease and decrease the administrative burden and costs on U.S. industry and the Federal government in the administration of the duty drawback program. This drawback statute rewrite was drafted with the joint support of the Bureau of Customs and Border Protection ("CBP") and U.S. industry in working with Congress. The drawback statute will fully integrate the drawback process into CBP's Automated Commercial Environment, ease CBP's involvement in the administration of the drawback program, and simplify record keeping and the claim filing process for the drawback trade community.

We do have one reservation with respect to our support for this bill. Under current law, a number of companies have the ability to link their import/export activity to the Harmonized Tariff Schedule of the United States

("HTSUS") in effect as of January 1, 2000. It is our understanding that the final language for this bill will have adequate linkage to the 2000 HTSUS. We ask for your committee's assistance in ensuring the preservation of the status quo for this one issue.

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

Sincerely,

Michael Platner

C. J. Holt & Co. Inc.
Oradell, New Jersey 07649
September 2, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Subcommittee on Trade
Committee on Ways and Means
Washington, DC 20515

Dear Chairman Shaw:

I am pleased to comment on your July 25 request for public comments regarding technical corrections to U.S. trade laws, and specifically H.R. 3363, a bill to amend the Tariff Act of 1930 relating to drawback.

Historically, the purpose of the drawback law (a program that reduces duties paid on imports that are subsequently exported or processed and then exported) has always been to assist American business and labor to compete more effectively in foreign markets by assuring that whatever enters into the cost of doing business in such markets is free from the additional cost of U.S. Customs duties. As a result, U.S. export trade is facilitated; the balance of trade is improved; jobs are created; and consequently the general economy benefits. To this end, the drawback law should be construed to accomplish the purpose intended.

H.R. 3363 is consistent with the purpose and spirit of the drawback law. These amendments are the result of several years of discussion between members of the drawback trade and Customs & Border Protection (CBP) under the auspices of the Trade Support Network, resulting in a drawback consensus document. The drawback consensus document outlined the areas of agreement between CBP and the drawback trade community and was written in statutory language as H.R. 3363.

The following highlights the major changes in the drawback law and the advantages of those changes to both CBP and the drawback trade community:

1. The basic drawback concepts of substitution, i.e., same kind and quality and commercial interchangeability, as well as the numerous types of drawback will be condensed into the globally accepted standard of the Harmonized Tariff Schedule of the United States to an eight-digit level. Drawback will be based on an objective standard, eliminating the need for subjective interpretation. This change alone will save considerable administrative costs for CBP and minimize the need for drawback claimants to pursue drawback issues in the courts.
2. The drawback statute will fully integrate the drawback process into CBP's Automated Commercial Environment (ACE). The drawback claim filing process will be automated, relieving CBP of an administrative burden and simplifying record keeping and claim filing for drawback claimants.
3. The drawback statute will eliminate the need for rulings and approvals prior to filing claims. This will eliminate the long wait time (approximately six to

12 months) between requesting approval for drawback and filing the first claim thus allowing drawback claimants to receive refunds quicker.
4. Under the new statute, time frames will be simplified so the drawback process will take place in an inclusive five year time frame. This will reduce the recordkeeping time frames for drawback records and alleviate the recordkeeping burden on both CBP and the drawback claimant.
5. The new statue will make drawback more available to any size U.S. company. Because of the complex nature of the current drawback program, many U.S. companies cannot afford to take advantage of the drawback program. The simplified process, reduced time frames and objective standards for drawback will give more exporters the opportunity to reduce their costs by obtaining drawback refunds, thus making them more competitive in the global marketplace.

In addition we feel that the following areas in H.R. 3363 should be reviewed by the Committee to see if they can be changed to better meet the intent and purpose of the drawback law:

1. Subsection (e) concerning refunds, waivers, or reductions under certain free trade agreements. Both NAFTA and the Chile FTA restrict drawback making it difficult for drawback claimants to claim drawback and for CBP to administer the drawback claims for exports to these areas. We feel that some relief for the drawback claimants and CBP can be given by applying the eight-digit HTSUS substitution concept to NAFTA and the Chile FTA. We believe there is allowance for this in the FTA language.
2. Subsection (j) concerning destruction in lieu of export. Destruction in lieu of export is existent in the current drawback statute for all types of drawback. The new statute restricts the use of destruction to only those items that can be traced to the entry on which they were entered. This methodology is extremely cumbersome for the trade to manage. Destruction drawback under the new statute should at least equal destruction drawback under the existing statute.
3. Subsection (b)(3) on liability does not need to be included in the statute. Based on bonding for drawback payments, it is the drawback claimant and the claimant's surety that are liable, not the importer.
4. To insure a clear understanding of the intent of the new drawback statute, we strongly urge that a detailed legislative history accompany H.R. 3363.

Edwin W. Van Ek
President

Charter Brokerage Corporation
Houston, Texas 77084
September 1, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of Charter Brokerage Corporation regarding HR 3363.

With respect to the above referenced bill, the legislation is strongly supported by U.S. industry, specifically domestic manufacturers and exporters in numerous market sectors, and is a complete rewrite of the drawback statute, 19 USC § 1313. It will substantially ease and decrease the administrative burden and costs on U.S. industry and the Federal government in the administration of the duty drawback program. This drawback rewrite is supported by and was drafted with the joint support of the Bureau of Customs and Border Protection ("CBP") and U.S. industry in working with Congress. The drawback statute will fully integrate the drawback process into CBP's Automated Commercial Environment, ease CBP's involvement in the administration of the drawback program, and simplify record keeping and the claim filing process for the drawback trade community.

We do have one reservation with respect to our support for this bill. Under current law, many companies have the ability to link their import/export activity to the 2000 Harmonized Tariff Schedule of the United States ("HTSUS"). It is our understanding that the final language for this bill will have adequate linkage to the 2000

HTSUS. We ask for your committee's assistance in ensuring the preservation of the status quo for this one issue.

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

Sincerely,

Bobby Waid
Executive Vice President

Comstock & Theakston, Inc.
Oradell, New Jersey 07649
September 01, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Subcommittee on Trade
Committee on Ways and Means
Washington, DC 20515

Dear Chairman Shaw:

Comstock & Theakston, Inc., which has served the trade community as drawback specialists continuously since 1894, is pleased to comment on your July 25, 2005 request for written comments on technical corrections to U.S. trade laws, and specifically H.R. 3363, a bill to amend the Tariff Act of 1930 relating to drawback.

For the past several years the Trade Support Network Committee has been working with the U.S. Bureau of Customs and Border Protection (CBP) to draft a new statute that will relieve CBP of much of the burden of administering the drawback program, simplify the record-keeping and claims process for the trade community, and fully integrate the drawback program into the new ACE import process. For the exporting community the new statute will allow companies to continue taking advantage of drawback, which is the only WTO-legal export incentive still available for U.S. companies.

Historically, as you are aware, the purpose of the drawback law has always been to assist American business and labor to compete more effectively in foreign markets by assuring that whatever enters into the cost of doing business in such markets is free from the additional cost of U.S. Customs duties. As a result, U.S. export trade is facilitated; the balance of trade is improved; jobs are created; and consequently the general economy benefits. To this end, the drawback law should be construed to accomplish the purpose intended. The provisions of H.R. 3363 are consistent with the purpose and spirit of the drawback law as noted above, and Comstock & Theakston, Inc. fully supports these amendments to the drawback law.

The provisions in H.R. 3363 will be advantageous to both CBP and the drawback trade community in several ways. First, the drawback concepts of substitution, as well as the numerous types of drawback, will be condensed into the globally accepted standard of the Harmonized Tariff Schedule of the United States to an eight-digit subheading level. Drawback will thus be based on an objective standard, eliminating the need for subjective interpretation and the administrative time and effort that accompany this. This change will save administrative costs for CBP and alleviate the need for drawback claimants to pursue drawback issues in the courts.

Second, the drawback statute will fully integrate the drawback process into CBP's Automated Commercial Environment (ACE). The drawback claim filing process will eventually be completely automated, relieving CBP of an administrative burden and simplifying record keeping and claim filing for drawback claimants.

Third, the drawback statute will eliminate the need for rulings and approvals prior to filing claims. This will reduce a significant administrative burden for CBP and an often lengthy delay for drawback claimants between requesting approvals for drawback and filing the first claim.

Fourth, under the new statute time frames will be simplified so that the drawback process takes place within a five year time frame from importation to filing a drawback claim. This will alleviate the record keeping burden on both CBP and drawback claimants.

Finally, the new statue will make drawback more available to any U.S. company, regardless of its size. Because of the complex nature of the current drawback program, many U.S. companies cannot afford to take advantage of the drawback program. The proposed simplified process and objective standards for drawback will

give more U.S. exporters the opportunity to reduce their costs by obtaining drawback refunds, thus making them more competitive in the global marketplace.

Thank you for this opportunity to comment on H.R. 3363.

Sincerely,

William A. Hagedorn
Vice President

Customs Advisory Services, Inc.
Atlanta, GA 30354
September 2, 2005

The Honorable E. Clay Shaw, Jr.
Chairman, Subcommittee on Trade of the
Committee on Ways and Means
U.S. House of Representatives

Dear Congressman Shaw:

We have reviewed the subject document and the numerous proposed bills included therein. In general, we support the provisions of the legislation as a reasonable way of reducing U.S. companies' continued cost of doing business in the global economy. Of particular interest to numerous U.S. small and minority businesses, is the inclusion in the legislation of H.R. 3363. H.R. 3363, as currently proposed, is a significant revision of the U.S. duty drawback laws as described in Section 313 of the Tariff Act of 1930 (19.U.S.C. 1313).

Our company has historically supported U.S. drawback law as a method of allowing U.S. companies to compete internationally in the global marketplace. U.S. duty drawback remains one of the few legally authorized and WTO approved methods allowing U.S. companies to compete effectively in foreign markets by assuring elimination of U.S. duties from international pricing of new materials and finished goods that pass through the U.S. U.S. export trade and U.S. jobs are both created when companies are allowed to drawback duties when products are exported from the U.S. Accordingly, U.S. duty drawback law must be retained and its methodology simplified in order to allow the participation in the program by the greatest number of companies. In general, we support H.R. 3363; however, some principles of the proposed legislation require clarification. Our specific comments and recommendations follow.

Section (a)

(1)(A): Simplification of substitution drawback using eight digit HTS (Harmonized Tariff Schedule of the United States) numbers will benefit all entities, public and private sectors, involved in the drawback process. U.S. companies involved in drawback will now have easier set up rules in determining substitution of goods and raw materials. Customs and Border Protection (CBP) will be able to monitor drawback activity at the HTS level electronically. Furthermore, CBP and the business community, in general, will benefit through the elimination of significant time delays in reviewing CBP drawback approvals for specific rulings for substitution drawback. The substitution criteria will no longer be subject to CBP determination; rather it will involve commercial application of HTS item standards.

Section (b)

(b)(1): A drawback claimant should also be any party that is the legal successor to any other company. This language currently exists in 19 U.S.C. 1313 and it permits companies combining their business operations to benefit from the un-used drawback rights of the predecessor entities.

(b)(2): Although importers and drawback claimants shall be held jointly and severally liable for the drawback process, we believe that CBP monitoring and auditing of the drawback process is essential to ensure compliance with the law and regulations. CBP must effectively continue to monitor the process in order to prevent fraud, waste or abuse in the program by unscrupulous or unethical claimants.

Section (e)

(5) Heading for this item should read "Total Amount of Duties, Taxes, Fees Paid or Owed." The heading would then be consistent with the description of the amounts shown in the text of the paragraph.

(6) Drawback, as herein described, shall be retained in its present form in all future Free Trade Agreements (FTAs) negotiated between the United States of America and another country ("the parties"). A ten year phase-out period for exports be-

tween the parties which are eligible for drawback shall begin January 1 of the year following the elimination of all duties on products shipped between the parties.

Section (g)

This paragraph should be modified to add the following sentence.

Additionally, over-quota duty paid on tobacco may be refunded under either direct identification un-used or manufacturing drawback. 19 U.S.C. 1313(j)(1) or 1313(a), respectively.

The wording modification shown above only requires the new law remain consistent with the current law regarding drawback on over-quota tobacco.

Section (i)

(1)(a) Drawback for merchandise destroyed should be allowable under the provisions of 19 U.S.C. 1313 (j)(2) and (b) respectively. Current law allows substitution drawback for merchandise and/or articles destroyed. The new drawback statute should be no more restrictive than the existing drawback legislation.

Section (n) Definitions

(1) DRAWBACK—The term 'drawback' means, notwithstanding any other provision of law, a refund of 99 percent of applicable duties, taxes and fees paid pursuant to Federal law, and not refunded under any other law, in a case . . .

The revised wording inserting the **"notwithstanding . . .** "language allows the proposed definition of drawback to remain consistent with current language in Subsection 1313(j)(2) of the current statute. Further, the deletion of the language **"upon importation of merchandise"** eliminates language Customs has historically used to restrict drawback. This language is too restrictive and had been interpreted by Customs to mean only duties, taxes and fees paid **"because"** of the importation of merchandise.

(5) In order to clarify the definition of substitute merchandise, the following sentence should be added to this definition:

Any merchandise—8-digit HTS subheading. All merchandise showing the same 8-digit HTS subheading shall be considered commercially interchangeable with all other merchandise of the same 8-digit subheading. When the two—

We respectfully request that modifications be made to HR 3363 in order to permit changes to the drawback law to benefit all companies, especially those small and minority businesses engaged in international trade.

If you have any questions please contact me.

Truly yours,

George M. Keller
President

DANZAS AEI Drawback Services
Houston, Texas 77084
August 29, 2005

The Honorable E. Clay Shaw, Jr. (R–FL)
Chairman, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Congressman Shaw:

These written comments are submitted pursuant to Trade Advisory #TR–3 issued on Monday, July 25, 2005. These comments are submitted on behalf of DANZAS AEI Drawback Services, regarding our positive support for HR 3363.

With respect to the above referenced bill, the legislation is strongly supported by U.S. industry, specifically domestic manufacturers and exporters in numerous market sectors, and is a complete rewrite of the drawback statute, 19 USC § 1313. It will substantially ease and decrease the administrative burden and costs on U.S. industry and the Federal government in the administration of the duty drawback program. This drawback rewrite is supported by and was drafted with the joint support of the Bureau of Customs and Border Protection ("CBP") and U.S. industry in working with Congress. The drawback statute will fully integrate the drawback process into CBP's Automated Commercial Environment, ease CBP's involvement in the administration of the drawback program, and simplify record keeping and the claim filing process for the drawback trade community.

We do reserve one caveat with respect to our support for this bill. Under current law, many companies have the ability to link their import/export activity to the 2000 Harmonized Tariff Schedule of the United States ("HTSUS"). It is our understanding that the final language for this bill will have adequate linkage to the 2000 HTSUS. We ask for your committee's assistance in ensuring that the status quo is preserved for this one issue.

Should you have any questions concerning these comments, please do not hesitate to contact the undersigned. We thank the Committee for its consideration of these comments.

Sincerely,

J.W. Brown

Florida Citrus Mutual
Lakeland, Florida 33801
September 2, 2005

Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives

INTRODUCTION AND SUMMARY OF POSITION

These comments are submitted on behalf of Florida Citrus Mutual (FCM) of Lakeland, Florida, in response to the invitation of the Chairman of the Subcommittee on Trade for written comments for the record on technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. See Advisory No. TR–3 (July 25, 2005). FCM is a voluntary cooperative association whose active membership consists of more than 11,000 Florida growers of citrus for processing and fresh consumption. FCM represents more than 90 percent of Florida's citrus growers. FCM's membership also accounts for as much as 80 percent of all oranges grown in the United States for processing into juice and other citrus products. FCM's comments are limited to the "technical correction" contained in H.R. 3363, "To amend the Tariff Act of 1930 relating to drawback."

It is FCM's position that the current drawback program, while intended to encourage domestic productive activity through the refund of duties paid on imported raw materials or substitute articles, can also pose negative effects to the U.S. citrus industry by reducing the level of protection afforded by the tariff, because the program encourages imports, but may or may not encourage an equal amount of exports upon which drawback claims are made. In addition, the drawback program benefits those who do the greatest amount of importing, which, in the case of orange juice, are the foreign-owned (mostly Brazilian-owned) processors, reprocessors, and blenders in Florida, whose loyalty is primarily to their foreign parent companies and their much greater investment in Brazilian processing facilities, not to the U.S. industry. Finally, we are concerned that the program encourages suppressed, "commoditized" pricing levels for orange juice which may be deemed legally interchangeable for drawback purposes, which may undermine the efforts of domestic sellers to market premium priced Florida juice. While FCM does not oppose the drawback program per se, we are concerned with the proposed modifications to the existing program which may accentuate or facilitate these potential negative impacts.

FCM is still assessing the potential impact of the drawback changes contained in H.R. 3363. While we are not prepared to oppose it outright, we are not convinced that the changes in their current form will result in a net benefit to Florida's citrus growers. Drawback is particularly difficult to analyze, in large part, because we have not been able to obtain from the Federal Government any data on actual drawback claims. One may easily determine what dutiable quantities are being imported and what quantities are being exported, but can only guess what percentage of exports result in paid drawback claims. Secondly, it is difficult to forecast the impact of these changes in the midst of an antidumping investigation that could alter the nature of future orange juice imports.

FCM, however, would like to help inform the current drawback debate by offering the following comments. In addition, FCM would like to continue participating in discussions on the possible ramifications of these drawback changes, as well as others that may further the interests of the entire U.S. citrus industry, rather than a select group of Brazilian firms.

THE PROPOSED CHANGE WILL LIBERALIZE DRAWBACK

Currently, the dollar amount of duties drawn back is limited by the volume of exported juice qualified to claim drawback. If the qualification period is extended from

3 years to 5 years (regardless of whether manufacturing or unused merchandise drawback is claimed) and the product eligibility requirements are incorporated into a more liberal tariff classification interchangeability standard, there will likely be a significant expansion in drawback claims made for orange juice. That expansion will be most dramatic in the first few years after liberalization, because claims filed on exports in the first few years could cover all the newly interchangeable goods imported in the past 5 years that were ineligible for drawback under the current law.

The extension to a 5-year qualification period would also provide a much longer window for drawing back duties paid during an import surge. For instance, an importer who has alternative markets for the foreign-origin juice outside of the United States, and knows he has only 3 years from the date of import to file a drawback claim, may choose to moderate import levels in a given year so that the current duties paid will not greatly exceed the amount he calculates that he can recover with drawback over the next 3 years. However, if the importer is allowed five years, instead of three, to make the qualifying export and claim drawback against those duties, he has less constraint built into the system to import large volumes in a given year, hoping that subsequent years will see lower demand or less favorable pricing conditions and still permit sufficient time to export enough volume to claim drawback under the expanded five-year qualification period. For an agricultural commodity like orange juice, this could very well contribute to the mindset that creates import surges.

DRAWBACK ON ORANGE JUICE PRIMARILY BENEFITS IMPORTERS, AND LIBERALIZED DRAWBACK EXPANDS IMPORTERS' BENEFITS

The U.S. drawback program was established to encourage U.S. commerce and manufacturing by enabling U.S. industry to better compete in foreign markets. H.R. 3363 advances this objective by liberalizing the drawback program, thus allowing duties to be drawn back for transactions that may not be eligible for drawback under the current law, and eliminating some requirements that, in the past, may have impeded the achievement of these goals with respect to some articles. The new bill also clearly serves the Government's objective of automating the drawback program through simplified interchangeability standards (i.e., tariff item matching), and eliminating the outdated and time-consuming paper-based claims system, in line with Customs' other automation priorities. However, FCM is concerned that such an expansion of the drawback program for citrus may confer commercial and manufacturing benefits in a discriminatory way, as it provides much greater benefits to the large Brazilian-owned processors in Florida that do most of the importing for their own accounts and, thus, hold the most drawback credits, while providing minimal, if any, benefits to Florida orange growers and processors of Florida-grown oranges. The global citrus industry is already characterized by tremendous market power held by the few members of the Brazilian processing industry, which consists of three large companies who not only produce most of the world's orange juice, but also own a large percentage of the orange juice shipping resources such as juice tanker ships. These are the ships upon which Florida growers and Florida-based processors will have to rely to export Florida product to other markets. Since the drawback credits would be negotiable instruments in the hands of the Brazilian-dominated importers, and since those importers control the vast majority of the shipping resources that may be used to export domestically-produced orange juice to other markets; the decision whether and how to use these credits, and the price at which they are negotiated, is of critical importance to the issue of whether the domestic industry realizes the benefit of liberalized standards. Simply providing a potential export volume outlet for domestically produced juice through the motivation of drawback does not guarantee the grower or Florida-based processor that such exports will be at meaningful prices. The presumed benefit to Florida of liberalized drawback standards through the expanded movement of Florida juice to export markets can easily be consumed in the cost of "sharing" the expanded drawback benefits and the cost of shipping that juice on the Brazilian-owned vessels. The benefits could easily accrue almost entirely to the Brazilian capital owners and importers, with only a minimal benefit bestowed on Florida growers who have been looking at expanded drawback qualification as the key to expanded outlets for their product. Any policy that contributes solely to the strength of the already highly concentrated orange juice industry is detrimental in the long-run to commerce and manufacturing in the U.S. citrus growing and processing industry.

IMPACT OF LIBERALIZED DRAWBACK ON PRICES

There is some indication that the liberalization of drawback could have a small positive effect on orange juice (OJ) prices within the United States to the extent that it would make the drawback program easier to use and, therefore, create de-

mand for U.S. OJ abroad. A theoretical increased demand for U.S. exports could then put much needed upward pressure on U.S. orange juice prices, hence, returns to U.S. growers, which are often tied to the price of bulk orange juice. This price improvement, however, is expected to be minimal in light of the small portion of U.S. orange juice supplies that are exported, the relatively small size of U.S. exports compared to world demand, and the relatively small change in the drawback program.

In addition, the proposed standards would allow the interchangeability of different grades of juice, so long as they are classifiable within the same eight-digit HTSUS item. This would permit the drawback of duties on lower grades of imports when higher grades of juice are exported, which could, over time, lower the average grade of U.S. orange juice imports. This would have a price-depressing effect on U.S. orange juice prices, which would counter any price improvements created by increased demand for exports. Additional research will need to be conducted concerning the grades demanded most in the United States, versus the grades demanded in our chief export markets before we can draw any firm conclusions on price impacts.

Additionally, as mentioned above, drawback liberalization could lead to more frequent import surges and an overall higher level of imports that will not necessarily be equal to the level of increase in exports. This strong possibility represents a significant threat to U.S. orange juice prices.

CONCLUSION

FCM understands the virtues of easing the administrative burden of the drawback program, especially for many products and commodities of U.S. industries that do not share the unique market characteristics of orange juice. However, FCM is not convinced that these virtues outweigh the potential disadvantages that the proposed standards pose for the U.S. citrus industry. We encourage the Subcommittee on Trade to take these comments into consideration in determining whether to incorporate the proposed drawback modification in the 2005 Miscellaneous Tariff Bill. We look forward to participating in, and sharing with the Committee, continued research and debate on drawback.

Andrew LaVigne
Executive Vice President & CEO

Joint Industry Group
Washington, DC 20006
September 2, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Subcommittee on Trade
Committee on Ways and Means
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Joint Industry Group (JIG) and its Drawback Committee, I am pleased to comment on your July 25 request for public comments regarding technical corrections to U.S. trade laws, and specifically H.R. 3363, a bill to amend the Tariff Act of 1930 relating to drawback.

The Joint Industry Group (JIG) is a member driven coalition of over one hundred sixty companies, trade associations and businesses actively involved in international trade. JIG examines the concerns of the business community relative to current and proposed international trade-related policies, actions, legislation and regulations. The coalition helps develop solutions to these concerns by working with Congress, the U.S. Bureau of Customs & Border Protection (CBP) (formerly the U.S. Customs Service), Department of Commerce, USTR, and other government agencies. JIG membership represents more than several hundreds of billion U.S. dollars in international trade.

JIG was organized in 1976 to serve as the private sector voice in customs matters. Over the years we have worked in close cooperation with the CBP on numerous trade issues. In 1993, our coalition served as the main force behind the drafting and passage of the Customs Modernization Act. Since that time, we have worked with CBP in implementing the Act. We were also instrumental in securing the funding to build the Automated Commercial Environment (ACE) and are now working with CBP on building a system that benefits both government and trade. Over time, we

have enlarged our scope to address export related issues, as well as work with the World Trade Organization and the World Customs Organization.

Our association has long been interested in improving the administration of the customs drawback program. As you know, the recovery of duties, taxes and fees on exported articles, paid at time of importation, has been part of U.S. customs' law since 1789, and was initiated to create jobs, encourage domestic manufacturing and encourage exports. Today the drawback program continues to be a very successful program, positively affecting nearly $16 billion of U.S. exports each year.

Over the past few years the Trade Support Network Committee, composed of individual brokers and industry drawback specialists, has been working with CBP to draft a new statute that relieves the agency of much of the burden of administering the drawback program, simplifies record-keeping and the claims process for the trade community, and fully integrates the program into the new ACE import process. For the exporting community the new statute will ensure increased customs facilitation and will allow companies to continue taking advantage of drawback, the sole WTO-legal export incentive still available for U.S. manufacturers and producers. We were very supportive of provisions in the 2004 Miscellaneous Trade and Tariff Act that clarified and made improvements to the current drawback program. We commend CBP in its effort to work with the import and export community in making further updates to the program and to simplify it under the new ACE.

The association has had an opportunity to review the most recent draft statute, dated August 10, 2005, and welcomes the opportunity to comment on its provisions.

Overall, we are pleased with CBP's efforts to streamline and simplify the process for companies to collect drawback. We appreciate that CBP's underlying goal in seeking these proposed changes is to set an objective standard for calculating drawback and to provide more flexibility for those using the program. To accomplish this we understand the draft statute proposes using the 8-digit HTS for determining drawback, rather than the more detailed, but limiting, reporting information provided at the 10-digit parts and components level. Although some practitioners continue to be concerned that this proposed approach is not equitable, overall we believe proper congressional oversight can ensure the approach is fair and more objective in practice.

Regarding the proposed statute, we have the following comments to the August 10 draft statute:

1. Joint and Several Liability—Section (b)(3)—This language is ambiguous regarding who is actually liable to the U.S. for drawback claims. Since liability is covered under Section 1592 and is not in the current drawback statute, we suggest that this section be substantially changed or dropped completely.
2. Automation—Section (b)(5)—Some drawback practitioners are concerned about the requirement for paper-less drawback claims. In order to simplify record keeping and reduce the administrative burden for the CBP, we understand the need to make the drawback claim filing process completely automated. However, 29% of all drawback claims are still filed manually. Small brokers are concerned about the cost and their need to maintain control of their files when going paper-less. Since Customs still permits the manual filing of some import entries, drawback claims should be allowed also. The CBP, therefore, needs to provide a fall-back for manual filing while the drawback process is being fully integrated into the CBP's Automated Commercial Environment (ACE).
3. NAFTA and other FTAs Section (e)—Filing drawback claims under NAFTA is very cumbersome. The way the statute implementing the NAFTA agreement is written, JIG members feel there may be room for some new interpretation, in particular regarding substitution. We encourage the CBP to consider an eight digit substitution and an average line item calculation.
4. Destruction of Merchandise (Section (f) —The proposed statute limits drawback to items that are identified as the actual merchandise that was imported. This is a retreat from current law that allows destruction on unused merchandise, manufactured articles, and rejected and returned merchandise. Current law also allows the use of substitution in destruction. Congress extended the provisions of destruction for drawback as recently as the Miscellaneous Trade & Technical Corrections Act of 2004. JIG believes the new statute should match current law regarding destruction.
5. Legislative History—The drawback program has been revised and changed numerous times since 1930, including most recently in the Customs Modernization Act and the Miscellaneous Trade Act of 2004. Each change has resulted in new definitions or procedures, sometimes in direct contradiction of earlier definitions, procedures or understandings. To ensure continuity of the program, a complete understanding of its procedures, and an opportunity for providing

more details on interpreting the statute, JIG recommends that the Subcommittee include a detailed legislative history or statement of legislative intent of the U.S. drawback program when it reports out a package of miscellaneous trade and tariff items.

We also have a number of operational questions from individual customs brokers and drawback specialists, although we understand it may still be too early in the process for Customs to be able to answer them fully. Therefore, we have encouraged those individuals to submit their questions separately to the Subcommittee and request that the Subcommittee endeavor to obtain answers directly from the CBP.

Thank you for this opportunity to comment on H.R. 3363, and we look forward to its expedited passage. Should you have any questions regarding these comments please do not hesitate to contact me.

Mary K. Alexander
Chair, Drawback Committee

The Ad Hoc Drawback Group
San Francisco, California 94104
September 2, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Subcommittee on Trade
Committee on Ways and Means
Washington, DC 20515

Dear Chairman Shaw:

Comments on the H.R. 3363 A Bill to Amend the Tariff Act of 1930 Relating to Drawback.

The following are submitted on behalf of the Ad Hoc Drawback Group, consisting of Customs Brokers providing drawback services. Our group is made up of twelve companies—all licensed Customs Brokers—whose sole business is the preparation and submission of drawback claims on behalf of exporters and other eligible parties. Though few in number, the members of this group were responsible for 20% of the non-petroleum drawback duties refunded in 2004.

We have come late to this process not through lack of interest. There simply has been no information provided to the public on the process to change the drawback law until recently.

We trust that the staff of the House Committee on Ways and Means will consider our questions and allow our concerns to be aired—which has not happened in this process to date.

1. Drawback Claimants—Section (b)(1). A long term provision of the drawback regulations has been that exporter has the first right of drawback. That right can be waived to the importer, manufacturer or producer (in the case of manufacturer's drawback) or **"any other intermediate party."** 191.28 & 191.33. The proposed law states "A drawback claimant may be any party". This is contrary to spirit of the drawback law. It does not demand that the party acting as claimant have any association with the drawback other than collecting some documentation. The ability to claim drawback should be restricted to those parties who have an interest in the transaction.
2. Importer Liability—Section (b)(3). In this section the importer, if a different party than the claimant, can be held secondarily liable for drawback claims. This is a radical change in the law. We understand that Customs will require the drawback claimant to have a surety bond in place before the claim is paid. Should Customs determine there is a problem with a paid drawback claim the party liable should be the party to whom Customs paid the drawback claim. If the claimant does not respond Customs will call on their surety to repay the drawback amount. The revenue of the United States is fully protected with this method. Currently, the importer when not the drawback claimant is not liable either in law or practice. As the importer was not paid by Customs, the law should not hold the importer liable for repayment.
3. Determining the amount of duty to be refunded—Section (d)(1). The bill calls for payment of drawback to be made on the basis of the duty paid for the HTS line item found on the import entry and identified up to eight digits. The amount of the duty listed will be divided by the quantity of the import as listed on the entry summary for that HTS line.

Where the eight digit classification covers a variety of part numbers at different values and quantities a "simple" division of value by unit from the import entry gives and "average" amount. This method denies equity to fulfill a system necessity.

This can be easily addressed. Extend the reporting line in the drawback claim to list the part number, value of that part and duty paid on that part. This extension would be completed by the claimant. Customs has already proposed to use such extensions or markers in other areas of the claim process.

4. Lesser of calculations—Section (d)(2). The value of the drawback paid will be conditioned by the value of the item exported. (Note: this only affects items that have not undergone manufacture). This is contrary to the past Supreme Court finding, which has been in existence for over 100 years. The Court's definition of exportation states that an export is " a severance of goods from the mass of things belonging to this country with an intention of uniting them to the mass of the things belonging to some foreign country." Value of the exportation has never been considered a factor in drawback. This is rightly so, since the variety of business conditions may have the goods in an export legally shown at a value less than the value of the original importation. The duty was based on the import value. When that good is exported the entire amount of the duty paid on those goods should be repaid through drawback. If the goods are discounted or even sent free of charge it is an inequity for the amount of drawback not to match the duty paid.

The value of the exportation should not act as a criteria for the payment of drawback.

5. Destruction of merchandise—Section (j). The proposed law limits drawback to items that can be identified as the actual merchandise that was imported. This is a retreat and a major reversal from the current law which allows destruction on Unused Merchandise, Manufactured Articles, Rejected and Returned Merchandise. The current law allows the use of substitution in destruction. As recently as passage of the Miscellaneous Trade Bill of 1994, Congress has seen fit to extend the provisions of destruction for drawback. This proposed drawback bill, without explanation, cuts out most of the options for destruction drawback which have been in enforce for the past ten years. It should be changed to match the current drawback law as to destruction.
6. **Title 26 of the United States Code is amended to include 19 U.S.C. § 1313(d), which reads as follows:**

"(d) Flavoring extracts; medicinal or toilet preparations; bottled distilled spirits and wines. Upon the exportation of flavoring extracts, medicinal or toilet preparations (including perfumery) manufactured or produced in the United States in part from domestic alcohol on which an internal-revenue tax has been paid, there shall be allowed a drawback equal in amount to the tax found to have been paid on the alcohol so used.

"Upon the exportation of bottled distilled spirits and wines manufactured or produced in the United States on which an internal-revenue tax has been paid or determined, there shall be allowed, under regulations to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, a drawback equal in amount to the tax found to have been paid or determined on such bottled distilled spirits and wines. In the case of distilled spirits, the preceding sentence shall not apply unless the claim for drawback is filed by the bottler or packager of the spirits and unless such spirits have been stamped or restamped, and marked, especially for export, under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury."

The Internal Revenue Service will administer the drawback referred to in the provision quoted above.

The purpose of this proposed change is unclear, but only serves to confuse. These are two very specific provisions of law that provide for the refund of paid taxes based on very clear circumstances. They have no connection with the concept of "Customs Drawback", i.e. duties, taxes and fees are paid upon importation and when a connection can be made between that importation and an exportation, these same duties, taxes and fees can be refunded up to 99%. It may be appropriate for TTB to administer the two specific provisions included in this addendum, since the excise taxes for which drawback is sought under those provisions are paid to TTB in the first place, and TTB is the agency with a record of those taxes. That will not be the case, however, where drawback of duties, taxes and fees paid at the border

are concerned. Customs is the recipient of those duties, taxes and fees and is therefore the appropriate agency to administer drawback connected to those payments.

Authority that parallels section 1313(d) is already contained in the Internal Revenue Code at Title 26, sections 5131 and 5062. These provisions are already administered by TTB. Therefore, if the purpose of the addendum is simply to ensure that only TTB—not TTB and Customs—administers this specific authority, that objective can be accomplished without the addendum. Since the entire proposal is a substitute for section 1313, the absence of section 1313(d)'s provisions from the proposal would constitute a repeal of that subsection, leaving only the Internal Revenue Code provisions administered by TTB.

Not only is the addendum therefore unnecessary; its inclusion could well create confusion. It could be viewed as an indication by Congress that it wishes to transfer other drawback authority, going beyond that of section 1313(d), from Customs to TTB. To preclude any such inference, the addendum should be dropped from the bill and clear legislative history should be provided to counter any such interpretation. Specifically, the legislative history should include a clear statement that section 1313(d) raises unique issues and that its repeal should not be construed to transfer any other drawback authority from Customs to TTB. The record should also state Congress's clear intent that the provisions of the new statute are to be administered by Customs.

The members of the Ad Hoc Drawback Group would like to thank the Chairman, and members and staff of the Subcommittee on Trade for the opportunity to comment on this proposed legislation.

Members of our group would be happy to receive any questions on these comments.

Neill F. Stroth
Chair
Anne-Marie Bush
Vice Chair

Veritrade International
Bellevue WA 98005
August 31, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Subcommittee on Trade
Committee on Ways and Means
Washington, DC 20515

Dear Chairman Shaw:

On behalf of Veritrade International, I am pleased to respond to your request for public comments concerning changes to the Tariff Act of 1930 relating to drawback presented as bill H.R. 3363. We have read the most recent draft statute, dated August 10, and base our comments on that version.

Our company is a customs brokerage firm that specializes in assisting small to medium sized importers and exporters with filing drawback claims with the Bureau of Customs and Border Protection (CBP). We represent the interest of clients who choose not to prepare these claims themselves due to the burdensome requirements of automation and knowledge that are required to file drawback claims. These companies realize that the benefits of drawback to their businesses can be substantial, even if the amounts refunded might seem small compared to the drawback funds paid to the larger drawback claimants. We are all uncertain if their current refunds can, or will, continue with the proposed changes.

While we feel that automation can be used to expedite the processing and validating of drawback claims, we also know that human intervention, human review, and human validation will be necessary to ensure the financial responsibility of the program. To that end, the ability to file claims electronically is a basic necessity, but using a computer as the sole means to validate the claim may be a luxury the government can not afford.

Our specific comments are as follows:

1. 1. Section (b)(2)—CBP will have no oversight or authority to verify information exchanged between importer and exporter.

It is possible that an exporter may receive import information and use it for a drawback claim on their behalf without the importer being aware that their imports

have been used. We strongly believe that CBP should verify that a claimant has permission to take an importer's duty though this information does not need to be transmitted at time of the drawback claim but can be done during an audit. The statute states that the claimant must obtain permission from another party if their information is used, but how would CBP know that the permission had been granted if they do not check?

2. Section (b)(3)—An importer would be secondarily liable to the claimant but only to the amount allowed by the importer on that claim.

The importer should not be liable for drawback claims made be a drawback claimant unless the importer gave false information to that claimant. The importer should not be liable for any error made by the drawback claimant since the importer has no control over that the drawback claimant files, except for the information provided by the importer to the drawback claimant. Requiring a surety bond for all drawback claims would allow CBP to recover any monies incorrectly refunded.

3. Section (b)(5)—All claims must use the CBP automated system.

This would be discrimination against the small exporter that has infrequent and/or small claims. If import entries are still accepted manually than so should drawback claims. Most claimants will file this information electronically, but it should not be a requirement. There may be times when CBP's computers are down or when software changes are being made by CBP that the trade has not had time to program for. Drawback claims must still be able to be presented in a non-electronic environment to protect elements of the claim that are becoming too old to be used.

4. Section (d)(1) & (2)—Duties claimed based on Averages and Lesser of Two.

The combined requirement of Averaging and Lesser of Two is an attempt by CBP to allow a computer to determine if a drawback claim is valid. This is based on information CBP believes will reside in the ACE computer for imports and exports. Since ACE is still being programmed and the changes to import entries are still in flux, it is impossible to know that the idea of comparing an import to an export will work as easily as they believe. If it does, then claimants should be able to use it if they believe it is in their best interest. But a claimant should also have the ability to prepare drawback claims as they are now, at the part number level, and submit that information electronically to CBP if that is in the claimant's best interest.

5. Section (j)—Reduction in calculated refunds by value of a tax benefit and the use of Direct Identification only for Destruction claims.

What is the definition of a tax benefit? Would a claimant have to prepare their annual corporate taxes two different ways (one without the destruction and drawback and one with) to determine what the benefit was?

The reintroduction of Direct Identification after the recent changes with the Miscellaneous Trade & Technical Corrections Act of 2004 to Substitution for Destruction drawback would appear to be a major leap backward. Congress has already approved the change; will they need to justify it again?

Some of the provisions we have discussed have raised substantial operational questions. Although we realize that the statute comes before the regulations, it would be unwise to look at the proposed statute and not try to understand how it will work.

Thank you for allowing our comments on H.R. 3363. We do not recommend passage of this bill as it now stands. We strongly feel that more discussions are required to take place between "The Trade" and CBP to work through the concerns expressed above. We respectfully request the H.R. 3363 not be added to, or included in, other legislation until the above points are discussed and agreed upon by all parties.

Sincerely,

Anne-Marie Bush
President

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman
Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20215

Dear Chairman Shaw:

On behalf of the American Apparel and Footwear Association—the national trade association of the apparel and footwear industries, and their suppliers—I am writing to express strong support for the following bills identified in the subject advisory.

HR 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements.

Comment: AAFA strongly supports this legislation and believes it is long overdue. The Committee for the Implementation of Textile Agreements (CITA) is responsible for far reaching decisions that deeply affect most AAFA members yet its actions are almost always taken behind closed doors with insufficient public scrutiny. This lack of transparency creates a highly unpredictable environment that is often perceived as being unfair. Recently, CITA has published guidelines to introduce some predictability into its deliberations. While we applaud those limited moves as a step in the right direction, we believe they are insufficient to provide the full accountability necessary for an intergovernmental agency which such responsibilities. Moreover, CITA has at times disregarded its own published guidelines as it has implemented China safeguard and short supply procedures. As a result, AAFA supports bringing CITA under the full jurisdiction of the Administrative Procedures Act.

HR 1121—A bill to repeal section 754 of the Tariff Act of 1930.

Comment: AAFA strongly supports the repeal of the Byrd Amendment. The Byrd legislation was enacted outside of the regular legislative process, by committees that do not enjoy primary jurisdiction over trade issues, and with no opportunity for public comment. Moreover, as has been found by the World Trade Organization (WTO), this provision puts the United States out of compliance with its WTO obligations. In fact, the European Union is currently assessing penalties on U.S. produced clothing in retaliation. Other countries have threatened to do the same. AAFA believes repeal of this abominable provision should be made a priority.

HR 1221, HR 3386, HR 3387, HR 3388, HR 3389, HR 3391, HR 3392, HR 3393, HR 3394, HR 3395, HR 3483, HR 3484, HR 3485, HR 3486, HR 3487, HR 3488, HR 3489, HR 3490, HR 3491—Duty suspensions with respect to various footwear articles. [Note: This does not include HR 3390, which we understand has been withdrawn.]

Comment. AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

HR 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.

Comment: AAFA strongly supports this legislation. Our association supported an earlier version of this legislation in the 108th Congress. This legislation would result in duty reductions for cotton fabrics that are already designated in short supply under various trade preference programs because these fabrics are unavailable in the United States and in the preference countries. Given that finished shirts may enter duty free using these fabrics, we believe it is also appropriate to permit the fabrics themselves to enter duty free. Thus, U.S. domestic manufacturers of shirts will be able to enjoy equal access to those same high quality fabrics that foreign based manufacturers enjoy.

HR 2589/HR 2590—Two bills to extend the temporary suspension of duty on certain filament yarns

Comment. AAFA strongly supports these provisions. AAFA was involved in the development of the original legislation and understand that the conditions that led to successful passage of the original legislation, including the fact that the yarns in question are not produced domestically, continue to exist. Thus, these provisions should be extended.

HR 1230—A bill to extend trade benefits to certain tents imported into the United States.

Comments. AAFA strongly supports this provision. This legislation relates to certain camping tents which are not made in the United States. Moreover, similar but slightly smaller tents, differentiated only by the fact that they are classified as "backpacking" tents, already enjoy duty free treatment. This provision would correct that anomaly.

In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment of such provisions may also facilitate proper findings of short supply for those programs, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

Footwear Distributors and Retailers of America
Washington, DC 20004
September 2, 2005

The Hon. E. Clay Shaw
Chairman
House Ways and Means Subcommittee on Trade
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw,

This letter is being submitted by the Footwear Distributors and Retailers of America (FDRA) and its members in response to the Subcommittee's request for comments on *Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills.*

FDRA's members comprise U.S. footwear distributors and retailers that, together, account for approximately 80 percent of footwear sales at retail in the United States. Also, imports now account for 99 percent of U.S. consumption of footwear. In other words, the U.S. footwear market comprises nearly all imports; any remaining U.S. production competes on basis other than price and is not affected by the elimination of tariffs.

FDRA and its members support the elimination of tariffs on footwear via all vehicles, including through legislation, free trade agreements and the current WTO Doha Round negotiations. FDRA recognizes the Committee's established practice of considering legislation to temporarily suspend duties on products only where annual revenue losses from duty suspensions total approximately $500,000 or less. FDRA understands that revenue losses from duty suspensions under H.R. 3487 are higher, but the amount remains modest and eliminating these tariffs will benefit FDRA and its member companies and in no way affect any domestic production. Therefore, FDRA supports passage of H.R. 1221, H.R. 3386, H.R. 3387, H.R. 3388, H.R. 3389, H.R. 3391, H.R. 3392, H.R. 3393, H.R. 3394, H.R. 3395, H.R. 3483, H.R. 3484, H.R. 3485, H.R. 3486, H.R. 3487, H.R. 3488, H.R. 3489, H.R. 3490 and H.R. 3491.

Peter T. Mangione

Footwear Distributors and Retailers of America

Retailer Members

Bakers Footwear Group
Brown Shoe Company
Clarks Companies
Designer Shoe Warehouse (DSW)
Famous Footwear
FOOTACTIONUSA
Foot Locker, Inc.
Footstar, Inc.
Gap, Inc.
Genesco, Inc.
J.C. Penney Company

Meldisco
Naturalizer Retail
Payless ShoeSource
Sears, Roebuck & Company
Rack Room Shoes
Retail Ventures, Inc.
The Stride Rite Corporation
Value City
Vans, Inc.
Wal-Mart

Distributor Members

ACI
Aerogroup Int., Inc.
ASICS Tiger Corporation
ATSCO Footwear, Inc.
AZALÉIA
BBC International
BCNY International Inc.
Bennett Footwear Group
Cels Enterprises
C.O. Lynch
Cole Haan
Converse
Drew Shoe Corporation
Dynasty Footwear
Elan-Polo, Inc.
E.S. Originals
Global Brand Marketing, Inc.
Green Market Services
HYI
H.H. Brown Shoe Company
Inter Pacific Corporation
Jimlar Corporation
K–Swiss, Inc.
Jones Apparel/Nine West
Laird, Ltd
LJO, Inc
Mark Tucker, Inc.
Mephisto USA
Mercury International
Nike, Inc.
Olem Shoe Corporation
Prima Group Traders, Inc.
RANNA, Inc.
Reef
Reebok International
Renaissance Imports
Right Stuff, Inc.
Salland Industries LTD
Sara Lee
SG Footwear, Inc.
Skechers USA, Inc.
Street Cars, Inc.
The Rockport Company
The Topline Corporation
Valley Lane Industries
Wolverine World Wide

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*Alternate member

Payless ShoeSouce, Inc.
Topeka, Kansas 66601
September 1, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

We are submitting these comments in response to the Subcommittee=s request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, we wish to express our **support** for the following bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
H.R. 3389—To suspend temporarily the duty on certain footwear for girls.
H.R. 3391—To suspend temporarily the duty on certain athletic footwear.
H.R. 3392—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—To suspend temporarily the duty on certain work footwear.
H.R. 3394—To suspend temporarily the duty on certain work footwear.
H.R. 3395—To suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Payless ShoeSource, Inc. is the Western Hemisphere's largest family footwear retailer, with over 4,600 stores across the United States, Canada, Central America and the Caribbean. The vast majority of those stores are located in the U.S. The Company employs over 27,000 associates worldwide.

Over the last 20 years, the production of footwear in the United States has dwindled to practically nothing. The footwear manufacturers still in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes.

Most footwear duties are therefore out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The above bills would eliminate the duties on several types of footwear but they have been carefully drafted so as not to affect the few remaining types which are still manufactured in the United States.

Duty-free entry of footwear would benefit the U.S. customer. The movement towards duty-free footwear would also be consistent with the overall direction the United States has taken in recently negotiated free trade agreements in Latin America.

Negotiations of the DR–CAFTA and the last miscellaneous tariff bill both served to engage the remaining domestic footwear interests in a discussion of exactly which types of shoes are still made in this country. As a result of those negotiations, all but 17 of the 115 shoe classifications codified under the Harmonized Tariff Schedule will be able to enter the U.S. duty-free from the Caribbean Basin countries and the Central American nations which become signatories to the DR–CAFTA.—To the extent any domestic footwear production still requires duty protection, that field has

been clearly drawn to include only 17 shoe types. To avoid controversy, those 17 types are unaffected by the above bills.

As the members of the Subcommittee are aware, tariff bills of this nature contain explicit references to 8-digit HTS numbers. The text of the bills, though, describes shoes types which are identifiable at the more specific 10-digit HTS level. Thus, the fiscal impact of these bills is limited to the more narrowly described footwear types and is of a much lower magnitude than might otherwise be suggested by an analysis at the 8-digit level.

In summary, eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months. Also, the bills are designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me or Nicole Bivens Collinson of Sandler, Travis & Rosenberg, P.A., if you have any questions on these provisions or require additional information.

Sincerely,

Michael J. Massey
Senior Vice President
General Counsel and Secretary

Retail Industry Leaders Association
Arlington, Virginia 22209
September 2, 2005

The Honorable E. Clay Shaw
Chairman
House Ways & Means Trade Subcommittee
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Retail Industry Leaders Association (RILA), we welcome the opportunity to submit comments on technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. There are several provisions that RILA strongly supports or opposes in the list of potential bills to be included in the Miscellaneous Trade Bill.

By way of background, RILA is an alliance of the world's most successful and innovative retailer and supplier companies—the leaders of the retail industry. RILA members represent almost $1.4 trillion in sales annually and operate more than 100,000 stores, manufacturing facilities and distribution centers nationwide. Its member retailers and suppliers have facilities in all 50 states, as well as internationally, and employ millions of workers domestically and worldwide. Through RILA, leaders in the critical disciplines of the retail industry work together to improve their businesses and the industry as a whole.

H.R. 1121—A bill to repeal section 754 of the Tariff Act of 1930

RILA strongly supports the inclusion of H.R. 1121 in the Miscellaneous Trade and Tariff bill. Repeal of the "Byrd Amendment" is a top priority for RILA and its members. The Byrd Amendment annually funnels money collected from antidumping and countervailing duty cases directly to companies that file petitions. These payouts create a perverse incentive for companies to file petitions and add an increasing number of product categories to those petitions in hopes of collecting a financial windfall. In addition, the presence of the Byrd Amendment impedes the settlement of trade cases because of the financial incentive given to the petitioners.

Since enactment of the amendment, the number of antidumping petitions filed on consumer ready products has increased. As a result of the amendment, more than $1 billion has been distributed to domestic petitioners with no strings attached and with no measurable increase to competitiveness. Repeal would not affect the operation of antidumping and countervailing duty laws, but would remove the perverse incentive to file cases and would keep revenue collected in the government treasury to be spent in a more appropriate way. Congress should support "fair-trade" that

creates a level playing field for everyone, not just import-sensitive domestic industries.

In January 2003, the World Trade Organization Appellate Body affirmed an earlier ruling that the "Byrd Amendment" was a violation of U.S. WTO obligations. The U.S. should live up to its international obligations. The U.S. is now facing retaliatory tariffs from several countries on a wide range of products for not repealing the Byrd Amendment. In a time when export trade is so important to our economy, unnecessary duties stifle exports and cause widespread layoffs while corporate subsidies do nothing to enhance the competitiveness of domestic industries.

Consumers are the real losers in this process. By encouraging protectionist behavior, the Byrd Amendment drives up prices for American consumer by encouraging trade defense actions that can increase the cost of consumer goods. The taxpayer funds distributed as a result of the law could be better used for other purposes.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture

RILA strongly opposes this bill. Such a labeling provision is unnecessary and adds additional burdens and costs to importers and retailers. Under section 304 of the Tariff Act of 1930, imported home furniture is already required to have a permanent country of origin marking. We do not believe an additional labeling requirement is useful or appropriate.

Duty Suspension Bills

RILA supports the following duty suspension bills:

H.R. 3308—A bill to suspend temporarily the duty on erasers.
H.R. 3309—A bill to suspend temporarily the duty on nail clippers.
H.R. 3310—A bill to suspend temporarily the duty on artificial flowers.
H.R. 3311—A bill to suspend temporarily the duty on electric pencil sharpeners.

We believe that these products are not made in the United States in commercial quantities sufficient to satisfy RILA members and their customers. As well, the duty on these products averages less than 5%.

RILA also supports the following footwear duty suspension bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3388—A bill to suspend temporarily the duty on certain women's footwear.
H.R. 3389—A bill to suspend temporarily the duty on certain footwear for girls.
H.R. 3390—A bill to suspend temporarily the duty on certain protective footwear.
H.R. 3391—A bill to suspend temporarily the duty on certain athletic footwear.
H.R. 3392—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3394—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3395—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Production of footwear in the United States has significantly declined over the last 20 years. Footwear manufacturers in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes

As a result, most of the current footwear duties are out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The footwear duty suspension bills being considered would eliminate the duties on several types of footwear, but will not affect the few remaining sensitive footwear categories which are still produced in the United States.

Eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow

for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

Conclusion

Thank you for the opportunity to submit comments on the Miscellaneous Trade and Tariff bill. If you have any questions, please contact Lori Denham, RILA's Senior Vice President for Policy and Planning or Jonathan Gold, RILA's Vice President Global Supply Chain Policy.

Sincerely,

Sandra L. Kennedy
President

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its support for the following bills:

H.R. 3308—To suspend temporarily the duty on erasers.
H.R. 3309—To suspend temporarily the duty on nail clippers.
H.R. 3310—To suspend temporarily the duty on artificial flowers.
H.R. 3311—To suspend temporarily the duty on electrically operated pencil sharpeners.
H.R. 2477—To suspend, temporarily the duty on bicycle speedometers.
H.R. 2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-angle reflectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.
H.R. 2479—To suspend temporarily the duty on unicycles.
H.R. 2556—To suspend temporarily the duty on air freshener electric devices with warmer units.
H.R. 2557—To suspend temporarily the duty on air freshener electric devices.
H.R. 2817—To suspend temporarily the duty on certain basketballs.
H.R. 2818—To suspend temporarily the duty on certain leather basketballs.
H.R. 2819—To suspend temporarily the duty on certain rubber basketballs.
H.R. 2820—To suspend temporarily the duty on certain volleyballs.
H.R. 2821—To suspend temporarily the duty on certain synthetic basketballs.
H.R. 3033—To (1) provide duty-free treatment for certain educational devices; and (2) extend such treatment through December 31, 2008.
H.R. 3112—To suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
H.R. 3113—To suspend temporarily the duty on certain cups, with or without saucers, of porcelain or china.
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H.R. 1221—To suspend the duty on certain rubber or plastic footwear.

H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
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H.R. 3388—To suspend temporarily the duty on certain women's footwear.
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H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman
Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20215

Dear Chairman Shaw:

On behalf of the American Apparel and Footwear Association—the national trade association of the apparel and footwear industries, and their suppliers—I am writing to express strong support for the following bills identified in the subject advisory.

HR 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements.

Comment: AAFA strongly supports this legislation and believes it is long overdue. The Committee for the Implementation of Textile Agreements (CITA) is responsible for far reaching decisions that deeply affect most AAFA members yet its actions are almost always taken behind closed doors with insufficient public scrutiny. This lack of transparency creates a highly unpredictable environment that is often perceived as being unfair. Recently, CITA has published guidelines to introduce some predictability into its deliberations. While we applaud those limited moves as a step in the right direction, we believe they are insufficient to provide the full accountability necessary for an intergovernmental agency which such responsibilities. Moreover, CITA has at times disregarded its own published guidelines as it has im-

plemented China safeguard and short supply procedures. As a result, AAFA supports bringing CITA under the full jurisdiction of the Administrative Procedures Act.

HR 1121—A bill to repeal section 754 of the Tariff Act of 1930.

Comment: AAFA strongly supports the repeal of the Byrd Amendment. The Byrd legislation was enacted outside of the regular legislative process, by committees that do not enjoy primary jurisdiction over trade issues, and with no opportunity for public comment. Moreover, as has been found by the World Trade Organization (WTO), this provision puts the United States out of compliance with its WTO obligations. In fact, the European Union is currently assessing penalties on U.S. produced clothing in retaliation. Other countries have threatened to do the same. AAFA believes repeal of this abominable provision should be made a priority.

HR 1221, HR 3386, HR 3387, HR 3388, HR 3389, HR 3391, HR 3392, HR 3393, HR 3394, HR 3395, HR 3483, HR 3484, HR 3485, HR 3486, HR 3487, HR 3488, HR 3489, HR 3490, HR 3491—Duty suspensions with respect to various footwear articles. [Note: This does not include HR 3390, which we understand has been withdrawn.]

Comment. AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

HR 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.

Comment: AAFA strongly supports this legislation. Our association supported an earlier version of this legislation in the 108th Congress. This legislation would result in duty reductions for cotton fabrics that are already designated in short supply under various trade preference programs because these fabrics are unavailable in the United States and in the preference countries. Given that finished shirts may enter duty free using these fabrics, we believe it is also appropriate to permit the fabrics themselves to enter duty free. Thus, U.S. domestic manufacturers of shirts will be able to enjoy equal access to those same high quality fabrics that foreign based manufacturers enjoy.

HR 2589/HR 2590—Two bills to extend the temporary suspension of duty on certain filament yarns

Comment. AAFA strongly supports these provisions. AAFA was involved in the development of the original legislation and understand that the conditions that led to successful passage of the original legislation, including the fact that the yarns in question are not produced domestically, continue to exist. Thus, these provisions should be extended.

HR 1230—A bill to extend trade benefits to certain tents imported into the United States.

Comments. AAFA strongly supports this provision. This legislation relates to certain camping tents which are not made in the United States. Moreover, similar but slightly smaller tents, differentiated only by the fact that they are classified as "backpacking" tents, already enjoy duty free treatment. This provision would correct that anomaly.

In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment of such provisions may also facilitate proper findings of short supply for those programs, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

Footwear Distributors and Retailers of America
Washington, DC 20004
September 2, 2005

The Hon. E. Clay Shaw
Chairman
House Ways and Means Subcommittee on Trade
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw,

This letter is being submitted by the Footwear Distributors and Retailers of America (FDRA) and its members in response to the Subcommittee's request for comments on *Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills.*

FDRA's members comprise U.S. footwear distributors and retailers that, together, account for approximately 80 percent of footwear sales at retail in the United States. Also, imports now account for 99 percent of U.S. consumption of footwear. In other words, the U.S. footwear market comprises nearly all imports; any remaining U.S. production competes on basis other than price and is not affected by the elimination of tariffs.

FDRA and its members support the elimination of tariffs on footwear via all vehicles, including through legislation, free trade agreements and the current WTO Doha Round negotiations. FDRA recognizes the Committee's established practice of considering legislation to temporarily suspend duties on products only where annual revenue losses from duty suspensions total approximately $500,000 or less. FDRA understands that revenue losses from duty suspensions under H.R. 3487 are higher, but the amount remains modest and eliminating these tariffs will benefit FDRA and its member companies and in no way affect any domestic production. Therefore, FDRA supports passage of H.R. 1221, H.R. 3386, H.R. 3387, H.R. 3388, H.R. 3389, H.R. 3391, H.R. 3392, H.R. 3393, H.R. 3394, H.R. 3395, H.R. 3483, H.R. 3484, H.R. 3485, H.R. 3486, H.R. 3487, H.R. 3488, H.R. 3489, H.R. 3490 and H.R. 3491.

Peter T. Mangione

Footwear Distributors and Retailers of America

Retailer Members

Bakers Footwear Group
Brown Shoe Company
Clarks Companies
Designer Shoe Warehouse (DSW)
Famous Footwear
FOOTACTIONUSA
Foot Locker, Inc.
Footstar, Inc.
Gap, Inc.
Genesco, Inc.
J.C. Penney Company
Meldisco
Naturalizer Retail
Payless ShoeSource
Sears, Roebuck & Company
Rack Room Shoes
Retail Ventures, Inc.
The Stride Rite Corporation
Value City
Vans, Inc.
Wal-Mart

Distributor Members

ACI
Aerogroup Int., Inc.
ASICS Tiger Corporation
ATSCO Footwear, Inc.
AZALEIA
BBC International
BCNY International Inc.
Bennett Footwear Group
Cels Enterprises
C.O. Lynch
Cole Haan
Converse
Drew Shoe Corporation
Dynasty Footwear
Elan-Polo, Inc.
E.S. Originals
Global Brand Marketing, Inc.
Green Market Services
HYI
H.H. Brown Shoe Company
Inter Pacific Corporation
Jimlar Corporation
K–Swiss, Inc.
Jones Apparel/Nine West
Laird, Ltd
LJO, Inc
Mark Tucker, Inc.
Mephisto USA
Mercury International
Nike, Inc.
Olem Shoe Corporation
Prima Group Traders, Inc.
RANNA, Inc.
Reef
Reebok International
Renaissance Imports

Right Stuff, Inc.
Salland Industries LTD
Sara Lee
SG Footwear, Inc.
Skechers USA, Inc.
Street Cars, Inc.
The Rockport Company
The Topline Corporation
Valley Lane Industries
Wolverine World Wide

EXECUTIVE COMMITTEE

Ron Fromm, Brown Shoe Company, Chairman
Jim Issler, H.H. Brown Shoe Company, Vice-chairman
Killick Datta, Global Brand Marketing, Inc., Treasurer
Rick Mina, Foot Locker, Inc
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Melanie Owens, Wal-Mart Stores, Inc.*
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Debbie Kocks, Wal-Mart Stores, Inc.*
Greg Ribatt, Bennett Footwear Group
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Joey Safedy, E.S. Originals
Laurence Tarica, Jimlar Corporation
Alan Luchette, Jones Apparel/Nine West Group
Robert Cooperstein, Mercury International
William Snowden, Sr., The Topline Corporation
LuAnne Via, Sears, Roebuck and Company
Steve Duffy, Wolverine World Wide
Cecil McDermott, J.C. Penney
Rick Thornton, The Stride Rite Corporation
Matt Rubel, Payless ShoeSource
Pamela Salkovitz, The Stride Rite Corporation*
Jeff Shepard, Meldisco

EX–OFFICIO

Robert Campbell, BBC International
Irving Wiseman, Mercury International
Joseph Russell, Elan-Polo, Inc., Chairman
*Alternate member

Payless ShoeSouce, Inc.
Topeka, Kansas 66601
September 1, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

We are submitting these comments in response to the Subcommittee=s request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, we wish to express our **support** for the following bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
H.R. 3389—To suspend temporarily the duty on certain footwear for girls.
H.R. 3391—To suspend temporarily the duty on certain athletic footwear.
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H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.

H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Payless ShoeSource, Inc. is the Western Hemisphere's largest family footwear retailer, with over 4,600 stores across the United States, Canada, Central America and the Caribbean. The vast majority of those stores are located in the U.S. The Company employs over 27,000 associates worldwide.

Over the last 20 years, the production of footwear in the United States has dwindled to practically nothing. The footwear manufacturers still in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes.

Most footwear duties are therefore out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The above bills would eliminate the duties on several types of footwear but they have been carefully drafted so as not to affect the few remaining types which are still manufactured in the United States.

Duty-free entry of footwear would benefit the U.S. customer. The movement towards duty-free footwear would also be consistent with the overall direction the United States has taken in recently negotiated free trade agreements in Latin America.

Negotiations of the DR–CAFTA and the last miscellaneous tariff bill both served to engage the remaining domestic footwear interests in a discussion of exactly which types of shoes are still made in this country. As a result of those negotiations, all but 17 of the 115 shoe classifications codified under the Harmonized Tariff Schedule will be able to enter the U.S. duty-free from the Caribbean Basin countries and the Central American nations which become signatories to the DR–CAFTA.—To the extent any domestic footwear production still requires duty protection, that field has been clearly drawn to include only 17 shoe types. To avoid controversy, those 17 types are unaffected by the above bills.

As the members of the Subcommittee are aware, tariff bills of this nature contain explicit references to 8-digit HTS numbers. The text of the bills, though, describes shoes types which are identifiable at the more specific 10-digit HTS level. Thus, the fiscal impact of these bills is limited to the more narrowly described footwear types and is of a much lower magnitude than might otherwise be suggested by an analysis at the 8-digit level.

In summary, eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months. Also, the bills are designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me or Nicole Bivens Collinson of Sandler, Travis & Rosenberg, P.A., if you have any questions on these provisions or require additional information.

Sincerely,

Michael J. Massey
Senior Vice President
General Counsel and Secretary

Retail Industry Leaders Association
Arlington, Virginia 22209
September 2, 2005

The Honorable E. Clay Shaw
Chairman
House Ways & Means Trade Subcommittee
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Retail Industry Leaders Association (RILA), we welcome the opportunity to submit comments on technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. There are several provisions that RILA

strongly supports or opposes in the list of potential bills to be included in the Miscellaneous Trade Bill.

By way of background, RILA is an alliance of the world's most successful and innovative retailer and supplier companies—the leaders of the retail industry. RILA members represent almost $1.4 trillion in sales annually and operate more than 100,000 stores, manufacturing facilities and distribution centers nationwide. Its member retailers and suppliers have facilities in all 50 states, as well as internationally, and employ millions of workers domestically and worldwide. Through RILA, leaders in the critical disciplines of the retail industry work together to improve their businesses and the industry as a whole.

H.R. 1121—A bill to repeal section 754 of the Tariff Act of 1930

RILA strongly supports the inclusion of H.R. 1121 in the Miscellaneous Trade and Tariff bill. Repeal of the "Byrd Amendment" is a top priority for RILA and its members. The Byrd Amendment annually funnels money collected from antidumping and countervailing duty cases directly to companies that file petitions. These payouts create a perverse incentive for companies to file petitions and add an increasing number of product categories to those petitions in hopes of collecting a financial windfall. In addition, the presence of the Byrd Amendment impedes the settlement of trade cases because of the financial incentive given to the petitioners.

Since enactment of the amendment, the number of antidumping petitions filed on consumer ready products has increased. As a result of the amendment, more than $1 billion has been distributed to domestic petitioners with no strings attached and with no measurable increase to competitiveness. Repeal would not affect the operation of antidumping and countervailing duty laws, but would remove the perverse incentive to file cases and would keep revenue collected in the government treasury to be spent in a more appropriate way. Congress should support "fair-trade" that creates a level playing field for everyone, not just import-sensitive domestic industries.

In January 2003, the World Trade Organization Appellate Body affirmed an earlier ruling that the "Byrd Amendment" was a violation of U.S. WTO obligations. The U.S. should live up to its international obligations. The U.S. is now facing retaliatory tariffs from several countries on a wide range of products for not repealing the Byrd Amendment. In a time when export trade is so important to our economy, unnecessary duties stifle exports and cause widespread layoffs while corporate subsidies do nothing to enhance the competitiveness of domestic industries.

Consumers are the real losers in this process. By encouraging protectionist behavior, the Byrd Amendment drives up prices for American consumer by encouraging trade defense actions that can increase the cost of consumer goods. The taxpayer funds distributed as a result of the law could be better used for other purposes.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture

RILA strongly opposes this bill. Such a labeling provision is unnecessary and adds additional burdens and costs to importers and retailers. Under section 304 of the Tariff Act of 1930, imported home furniture is already required to have a permanent country of origin marking. We do not believe an additional labeling requirement is useful or appropriate.

Duty Suspension Bills

RILA supports the following duty suspension bills:

H.R. 3308—A bill to suspend temporarily the duty on erasers.

H.R. 3309—A bill to suspend temporarily the duty on nail clippers.

H.R. 3310—A bill to suspend temporarily the duty on artificial flowers.

H.R. 3311—A bill to suspend temporarily the duty on electric pencil sharpeners.

We believe that these products are not made in the United States in commercial quantities sufficient to satisfy RILA members and their customers. As well, the duty on these products averages less than 5%.

RILA also supports the following footwear duty suspension bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.

H.R. 3386—A bill to suspend temporarily the duty on certain footwear with open toes or heels.

H.R. 3387—A bill to suspend temporarily the duty on certain work footwear.

H.R. 3388—A bill to suspend temporarily the duty on certain women's footwear.

H.R. 3389—A bill to suspend temporarily the duty on certain footwear for girls.

H.R. 3390—A bill to suspend temporarily the duty on certain protective footwear.

H.R. 3391—A bill to suspend temporarily the duty on certain athletic footwear.

H.R. 3392—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
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Production of footwear in the United States has significantly declined over the last 20 years. Footwear manufacturers in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes

As a result, most of the current footwear duties are out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The footwear duty suspension bills being considered would eliminate the duties on several types of footwear, but will not affect the few remaining sensitive footwear categories which are still produced in the United States.

Eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

Conclusion

Thank you for the opportunity to submit comments on the Miscellaneous Trade and Tariff bill. If you have any questions, please contact Lori Denham, RILA's Senior Vice President for Policy and Planning or Jonathan Gold, RILA's Vice President Global Supply Chain Policy.

Sincerely,

Sandra L. Kennedy
President

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its **support** for the following bills:

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H.R. 2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-angle reflectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.
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H.R. 3112—To suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
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H.R. 3491—To suspend temporarily the duty on certain leather footwear.

These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman
Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20215

Dear Chairman Shaw:

On behalf of the American Apparel and Footwear Association—the national trade association of the apparel and footwear industries, and their suppliers—I am writing to express strong support for the following bills identified in the subject advisory.

HR 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements.

Comment: AAFA strongly supports this legislation and believes it is long overdue. The Committee for the Implementation of Textile Agreements (CITA) is responsible for far reaching decisions that deeply affect most AAFA members yet its actions are almost always taken behind closed doors with insufficient public scrutiny. This lack of transparency creates a highly unpredictable environment that is often perceived as being unfair. Recently, CITA has published guidelines to introduce some predictability into its deliberations. While we applaud those limited moves as a step in the right direction, we believe they are insufficient to provide the full accountability necessary for an intergovernmental agency which such responsibilities. Moreover, CITA has at times disregarded its own published guidelines as it has implemented China safeguard and short supply procedures. As a result, AAFA supports bringing CITA under the full jurisdiction of the Administrative Procedures Act.

HR 1121—A bill to repeal section 754 of the Tariff Act of 1930.

Comment: AAFA strongly supports the repeal of the Byrd Amendment. The Byrd legislation was enacted outside of the regular legislative process, by committees that do not enjoy primary jurisdiction over trade issues, and with no opportunity for public comment. Moreover, as has been found by the World Trade Organization (WTO), this provision puts the United States out of compliance with its WTO obligations. In fact, the European Union is currently assessing penalties on U.S. produced clothing in retaliation. Other countries have threatened to do the same. AAFA believes repeal of this abominable provision should be made a priority.

HR 1221, HR 3386, HR 3387, HR 3388, HR 3389, HR 3391, HR 3392, HR 3393, HR 3394, HR 3395, HR 3483, HR 3484, HR 3485, HR 3486, HR 3487, HR 3488, HR 3489, HR 3490, HR 3491—Duty suspensions with respect to various footwear articles. [Note: This does not include HR 3390, which we understand has been withdrawn.]

Comment. AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

HR 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.

Comment: AAFA strongly supports this legislation. Our association supported an earlier version of this legislation in the 108th Congress. This legislation would result in duty reductions for cotton fabrics that are already designated in short supply under various trade preference programs because these fabrics are unavailable in the United States and in the preference countries. Given that finished shirts may enter duty free using these fabrics, we believe it is also appropriate to permit the fabrics themselves to enter duty free. Thus, U.S. domestic manufacturers of shirts will be able to enjoy equal access to those same high quality fabrics that foreign based manufacturers enjoy.

HR 2589/HR 2590—Two bills to extend the temporary suspension of duty on certain filament yarns

Comment. AAFA strongly supports these provisions. AAFA was involved in the development of the original legislation and understand that the conditions that led to successful passage of the original legislation, including the fact that the yarns in question are not produced domestically, continue to exist. Thus, these provisions should be extended.

HR 1230—A bill to extend trade benefits to certain tents imported into the United States.

Comments. AAFA strongly supports this provision. This legislation relates to certain camping tents which are not made in the United States. Moreover, similar but slightly smaller tents, differentiated only by the fact that they are classified as "backpacking" tents, already enjoy duty free treatment. This provision would correct that anomaly.

In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment of such provisions may also facilitate proper findings of short supply for those programs, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

Footwear Distributors and Retailers of America
Washington, DC 20004
September 2, 2005

The Hon. E. Clay Shaw
Chairman
House Ways and Means Subcommittee on Trade
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw,

This letter is being submitted by the Footwear Distributors and Retailers of America (FDRA) and its members in response to the Subcommittee's request for comments on Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills.

FDRA's members comprise U.S. footwear distributors and retailers that, together, account for approximately 80 percent of footwear sales at retail in the United States. Also, imports now account for 99 percent of U.S. consumption of footwear. In other words, the U.S. footwear market comprises nearly all imports; any remaining U.S. production competes on basis other than price and is not affected by the elimination of tariffs.

FDRA and its members support the elimination of tariffs on footwear via all vehicles, including through legislation, free trade agreements and the current WTO Doha Round negotiations. FDRA recognizes the Committee's established practice of considering legislation to temporarily suspend duties on products only where annual revenue losses from duty suspensions total approximately $500,000 or less. FDRA understands that revenue losses from duty suspensions under H.R. 3487 are higher, but the amount remains modest and eliminating these tariffs will benefit FDRA and its member companies and in no way affect any domestic production. Therefore, FDRA supports passage of H.R. 1221, H.R. 3386, H.R. 3387, H.R. 3388, H.R. 3389, H.R. 3391, H.R. 3392, H.R. 3393, H.R. 3394, H.R. 3395, H.R. 3483, H.R. 3484, H.R. 3485, H.R. 3486, H.R. 3487, H.R. 3488, H.R. 3489, H.R. 3490 and H.R. 3491.

Peter T. Mangione

Footwear Distributors and Retailers of America

Retailer Members

Bakers Footwear Group
Brown Shoe Company
Clarks Companies
Designer Shoe Warehouse (DSW)
Famous Footwear
FOOTACTIONUSA
Foot Locker, Inc.
Footstar, Inc.
Gap, Inc.
Genesco, Inc.
J.C. Penney Company

Meldisco
Naturalizer Retail
Payless ShoeSource
Sears, Roebuck & Company
Rack Room Shoes
Retail Ventures, Inc.
The Stride Rite Corporation
Value City
Vans, Inc.
Wal-Mart

Distributor Members

ACI
Aerogroup Int., Inc.
ASICS Tiger Corporation
ATSCO Footwear, Inc.
AZALÉIA
BBC International
BCNY International Inc.
Bennett Footwear Group
Cels Enterprises
C.O. Lynch
Cole Haan
Converse
Drew Shoe Corporation
Dynasty Footwear
Elan-Polo, Inc.
E.S. Originals
Global Brand Marketing, Inc.
Green Market Services
HYI
H.H. Brown Shoe Company
Inter Pacific Corporation
Jimlar Corporation
K–Swiss, Inc.
Jones Apparel/Nine West
Laird, Ltd
LJO, Inc
Mark Tucker, Inc.
Mephisto USA
Mercury International
Nike, Inc.
Olem Shoe Corporation
Prima Group Traders, Inc.
RANNA, Inc.
Reef
Reebok International
Renaissance Imports
Right Stuff, Inc.
Salland Industries LTD
Sara Lee
SG Footwear, Inc.
Skechers USA, Inc.
Street Cars, Inc.
The Rockport Company
The Topline Corporation
Valley Lane Industries
Wolverine World Wide

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Matt Rubel, Payless ShoeSource
Pamela Salkovitz, The Stride Rite Corporation*
Jeff Shepard, Meldisco

EX–OFFICIO

Robert Campbell, BBC International
Irving Wiseman, Mercury International
Joseph Russell, Elan-Polo, Inc., Chairman
*Alternate member

Payless ShoeSouce, Inc.
Topeka, Kansas 66601
September 1, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

We are submitting these comments in response to the Subcommittee=s request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, we wish to express our **support** for the following bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
H.R. 3389—To suspend temporarily the duty on certain footwear for girls.
H.R. 3391—To suspend temporarily the duty on certain athletic footwear.
H.R. 3392—To suspend temporarily the duty on certain footwear with open toes or heels.
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H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Payless ShoeSource, Inc. is the Western Hemisphere's largest family footwear retailer, with over 4,600 stores across the United States, Canada, Central America and the Caribbean. The vast majority of those stores are located in the U.S. The Company employs over 27,000 associates worldwide.

Over the last 20 years, the production of footwear in the United States has dwindled to practically nothing. The footwear manufacturers still in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes.

Most footwear duties are therefore out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The above bills would eliminate the duties on several types of footwear but they have been carefully drafted so as not to affect the few remaining types which are still manufactured in the United States.

Duty-free entry of footwear would benefit the U.S. customer. The movement towards duty-free footwear would also be consistent with the overall direction the United States has taken in recently negotiated free trade agreements in Latin America.

Negotiations of the DR–CAFTA and the last miscellaneous tariff bill both served to engage the remaining domestic footwear interests in a discussion of exactly which types of shoes are still made in this country. As a result of those negotiations, all but 17 of the 115 shoe classifications codified under the Harmonized Tariff Schedule will be able to enter the U.S. duty-free from the Caribbean Basin countries and the Central American nations which become signatories to the DR–CAFTA.—To the extent any domestic footwear production still requires duty protection, that field has

been clearly drawn to include only 17 shoe types. To avoid controversy, those 17 types are unaffected by the above bills.

As the members of the Subcommittee are aware, tariff bills of this nature contain explicit references to 8-digit HTS numbers. The text of the bills, though, describes shoes types which are identifiable at the more specific 10-digit HTS level. Thus, the fiscal impact of these bills is limited to the more narrowly described footwear types and is of a much lower magnitude than might otherwise be suggested by an analysis at the 8-digit level.

In summary, eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months. Also, the bills are designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me or Nicole Bivens Collinson of Sandler, Travis & Rosenberg, P.A., if you have any questions on these provisions or require additional information.

Sincerely,

Michael J. Massey
Senior Vice President
General Counsel and Secretary

Retail Industry Leaders Association
Arlington, Virginia 22209
September 2, 2005

The Honorable E. Clay Shaw
Chairman
House Ways & Means Trade Subcommittee
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Retail Industry Leaders Association (RILA), we welcome the opportunity to submit comments on technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. There are several provisions that RILA strongly supports or opposes in the list of potential bills to be included in the Miscellaneous Trade Bill.

By way of background, RILA is an alliance of the world's most successful and innovative retailer and supplier companies—the leaders of the retail industry. RILA members represent almost $1.4 trillion in sales annually and operate more than 100,000 stores, manufacturing facilities and distribution centers nationwide. Its member retailers and suppliers have facilities in all 50 states, as well as internationally, and employ millions of workers domestically and worldwide. Through RILA, leaders in the critical disciplines of the retail industry work together to improve their businesses and the industry as a whole.

H.R. 1121—A bill to repeal section 754 of the Tariff Act of 1930

RILA strongly supports the inclusion of H.R. 1121 in the Miscellaneous Trade and Tariff bill. Repeal of the "Byrd Amendment" is a top priority for RILA and its members. The Byrd Amendment annually funnels money collected from antidumping and countervailing duty cases directly to companies that file petitions. These payouts create a perverse incentive for companies to file petitions and add an increasing number of product categories to those petitions in hopes of collecting a financial windfall. In addition, the presence of the Byrd Amendment impedes the settlement of trade cases because of the financial incentive given to the petitioners.

Since enactment of the amendment, the number of antidumping petitions filed on consumer ready products has increased. As a result of the amendment, more than $1 billion has been distributed to domestic petitioners with no strings attached and with no measurable increase to competitiveness. Repeal would not affect the operation of antidumping and countervailing duty laws, but would remove the perverse incentive to file cases and would keep revenue collected in the government treasury to be spent in a more appropriate way. Congress should support "fair-trade" that

creates a level playing field for everyone, not just import-sensitive domestic industries.

In January 2003, the World Trade Organization Appellate Body affirmed an earlier ruling that the "Byrd Amendment" was a violation of U.S. WTO obligations. The U.S. should live up to its international obligations. The U.S. is now facing retaliatory tariffs from several countries on a wide range of products for not repealing the Byrd Amendment. In a time when export trade is so important to our economy, unnecessary duties stifle exports and cause widespread layoffs while corporate subsidies do nothing to enhance the competitiveness of domestic industries.

Consumers are the real losers in this process. By encouraging protectionist behavior, the Byrd Amendment drives up prices for American consumer by encouraging trade defense actions that can increase the cost of consumer goods. The taxpayer funds distributed as a result of the law could be better used for other purposes.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture

RILA strongly opposes this bill. Such a labeling provision is unnecessary and adds additional burdens and costs to importers and retailers. Under section 304 of the Tariff Act of 1930, imported home furniture is already required to have a permanent country of origin marking. We do not believe an additional labeling requirement is useful or appropriate.

Duty Suspension Bills

RILA supports the following duty suspension bills:

H.R. 3308—A bill to suspend temporarily the duty on erasers.
H.R. 3309—A bill to suspend temporarily the duty on nail clippers.
H.R. 3310—A bill to suspend temporarily the duty on artificial flowers.
H.R. 3311—A bill to suspend temporarily the duty on electric pencil sharpeners.

We believe that these products are not made in the United States in commercial quantities sufficient to satisfy RILA members and their customers. As well, the duty on these products averages less than 5%.

RILA also supports the following footwear duty suspension bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3388—A bill to suspend temporarily the duty on certain women's footwear.
H.R. 3389—A bill to suspend temporarily the duty on certain footwear for girls.
H.R. 3390—A bill to suspend temporarily the duty on certain protective footwear.
H.R. 3391—A bill to suspend temporarily the duty on certain athletic footwear.
H.R. 3392—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
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H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Production of footwear in the United States has significantly declined over the last 20 years. Footwear manufacturers in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes

As a result, most of the current footwear duties are out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The footwear duty suspension bills being considered would eliminate the duties on several types of footwear, but will not affect the few remaining sensitive footwear categories which are still produced in the United States.

Eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow

for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

Conclusion

Thank you for the opportunity to submit comments on the Miscellaneous Trade and Tariff bill. If you have any questions, please contact Lori Denham, RILA's Senior Vice President for Policy and Planning or Jonathan Gold, RILA's Vice President Global Supply Chain Policy.

Sincerely,

Sandra L. Kennedy
President

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin Ranking Member,
Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its support for the following bills:

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H.R. 3309—To suspend temporarily the duty on nail clippers.
H.R. 3310—To suspend temporarily the duty on artificial flowers.
H.R. 3311—To suspend temporarily the duty on electrically operated pencil sharpeners.
H.R. 2477—To suspend, temporarily the duty on bicycle speedometers.
H.R. 2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-angle reflectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.
H.R. 2479—To suspend temporarily the duty on unicycles.
H.R. 2556—To suspend temporarily the duty on air freshener electric devices with warmer units.
H.R. 2557—To suspend temporarily the duty on air freshener electric devices.
H.R. 2817—To suspend temporarily the duty on certain basketballs.
H.R. 2818—To suspend temporarily the duty on certain leather basketballs.
H.R. 2819—To suspend temporarily the duty on certain rubber basketballs.
H.R. 2820—To suspend temporarily the duty on certain volleyballs.
H.R. 2821—To suspend temporarily the duty on certain synthetic basketballs.
H.R. 3033—To (1) provide duty-free treatment for certain educational devices; and (2) extend such treatment through December 31, 2008.
H.R. 3112—To suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
H.R. 3113—To suspend temporarily the duty on certain cups, with or without saucers, of porcelain or china.
H.R. 3114—To suspend temporarily the duty on certain flags.
H.R. 3115—To suspend temporarily the duty on certain clocks.
H.R. 3116—To suspend temporarily the duty on certain glass articles.
H.R. 3117—To suspend temporarily the duty on certain glass articles of lead crystal.
H.R. 3118—To suspend temporarily the duty on certain music boxes.
H.R. 1221—To suspend the duty on certain rubber or plastic footwear.

H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
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These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20215

Dear Chairman Shaw:

On behalf of the American Apparel and Footwear Association—the national trade association of the apparel and footwear industries, and their suppliers—I am writing to express strong support for the following bills identified in the subject advisory.

HR 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements.

Comment: AAFA strongly supports this legislation and believes it is long overdue. The Committee for the Implementation of Textile Agreements (CITA) is responsible for far reaching decisions that deeply affect most AAFA members yet its actions are almost always taken behind closed doors with insufficient public scrutiny. This lack of transparency creates a highly unpredictable environment that is often perceived as being unfair. Recently, CITA has published guidelines to introduce some predictability into its deliberations. While we applaud those limited moves as a step in the right direction, we believe they are insufficient to provide the full accountability necessary for an intergovernmental agency which such responsibilities. Moreover, CITA has at times disregarded its own published guidelines as it has implemented China safeguard and short supply procedures. As a result, AAFA sup-

ports bringing CITA under the full jurisdiction of the Administrative Procedures Act.

HR 1121—A bill to repeal section 754 of the Tariff Act of 1930.

Comment: AAFA strongly supports the repeal of the Byrd Amendment. The Byrd legislation was enacted outside of the regular legislative process, by committees that do not enjoy primary jurisdiction over trade issues, and with no opportunity for public comment. Moreover, as has been found by the World Trade Organization (WTO), this provision puts the United States out of compliance with its WTO obligations. In fact, the European Union is currently assessing penalties on U.S. produced clothing in retaliation. Other countries have threatened to do the same. AAFA believes repeal of this abominable provision should be made a priority.

HR 1221, HR 3386, HR 3387, HR 3388, HR 3389, HR 3391, HR 3392, HR 3393, HR 3394, HR 3395, HR 3483, HR 3484, HR 3485, HR 3486, HR 3487, HR 3488, HR 3489, HR 3490, HR 3491—Duty suspensions with respect to various footwear articles. [Note: This does not include HR 3390, which we understand has been withdrawn.]

Comment. AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

HR 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.

Comment: AAFA strongly supports this legislation. Our association supported an earlier version of this legislation in the 108th Congress. This legislation would result in duty reductions for cotton fabrics that are already designated in short supply under various trade preference programs because these fabrics are unavailable in the United States and in the preference countries. Given that finished shirts may enter duty free using these fabrics, we believe it is also appropriate to permit the fabrics themselves to enter duty free. Thus, U.S. domestic manufacturers of shirts will be able to enjoy equal access to those same high quality fabrics that foreign based manufacturers enjoy.

HR 2589/HR 2590—Two bills to extend the temporary suspension of duty on certain filament yarns

Comment. AAFA strongly supports these provisions. AAFA was involved in the development of the original legislation and understand that the conditions that led to successful passage of the original legislation, including the fact that the yarns in question are not produced domestically, continue to exist. Thus, these provisions should be extended.

HR 1230—A bill to extend trade benefits to certain tents imported into the United States.

Comments. AAFA strongly supports this provision. This legislation relates to certain camping tents which are not made in the United States. Moreover, similar but slightly smaller tents, differentiated only by the fact that they are classified as "backpacking" tents, already enjoy duty free treatment. This provision would correct that anomaly.

In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment of such provisions may also facilitate proper findings of short supply for those programs, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

Footwear Distributors and Retailers of America
Washington, DC 20004
September 2, 2005

The Hon. E. Clay Shaw
Chairman
House Ways and Means Subcommittee on Trade
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw,

This letter is being submitted by the Footwear Distributors and Retailers of America (FDRA) and its members in response to the Subcommittee's request for comments on Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills.

FDRA's members comprise U.S. footwear distributors and retailers that, together, account for approximately 80 percent of footwear sales at retail in the United States. Also, imports now account for 99 percent of U.S. consumption of footwear. In other words, the U.S. footwear market comprises nearly all imports; any remaining U.S. production competes on basis other than price and is not affected by the elimination of tariffs.

FDRA and its members support the elimination of tariffs on footwear via all vehicles, including through legislation, free trade agreements and the current WTO Doha Round negotiations. FDRA recognizes the Committee's established practice of considering legislation to temporarily suspend duties on products only where annual revenue losses from duty suspensions total approximately $500,000 or less. FDRA understands that revenue losses from duty suspensions under H.R. 3487 are higher, but the amount remains modest and eliminating these tariffs will benefit FDRA and its member companies and in no way affect any domestic production. Therefore, FDRA supports passage of H.R. 1221, H.R. 3386, H.R. 3387, H.R. 3388, H.R. 3389, H.R. 3391, H.R. 3392, H.R. 3393, H.R. 3394, H.R. 3395, H.R. 3483, H.R. 3484, H.R. 3485, H.R. 3486, H.R. 3487, H.R. 3488, H.R. 3489, H.R. 3490 and H.R. 3491.

Peter T. Mangione

Footwear Distributors and Retailers of America

Retailer Members

Bakers Footwear Group
Brown Shoe Company
Clarks Companies
Designer Shoe Warehouse (DSW)
Famous Footwear
FOOTACTIONUSA
Foot Locker, Inc.
Footstar, Inc.
Gap, Inc.
Genesco, Inc.
J.C. Penney Company
Meldisco
Naturalizer Retail
Payless ShoeSource
Sears, Roebuck & Company
Rack Room Shoes
Retail Ventures, Inc.
The Stride Rite Corporation
Value City
Vans, Inc.
Wal-Mart

Distributor Members

ACI
Aerogroup Int., Inc.
ASICS Tiger Corporation
ATSCO Footwear, Inc.
AZALEIA
BBC International
BCNY International Inc.
Bennett Footwear Group
Cels Enterprises
C.O. Lynch
Cole Haan
Converse
Drew Shoe Corporation
Dynasty Footwear
Elan-Polo, Inc.
E.S. Originals
Global Brand Marketing, Inc.
Green Market Services
HYI
H.H. Brown Shoe Company
Inter Pacific Corporation
Jimlar Corporation
K–Swiss, Inc.
Jones Apparel/Nine West
Laird, Ltd
LJO, Inc
Mark Tucker, Inc.
Mephisto USA
Mercury International
Nike, Inc.
Olem Shoe Corporation
Prima Group Traders, Inc.
RANNA, Inc.
Reef
Reebok International
Renaissance Imports

Right Stuff, Inc.
Salland Industries LTD
Sara Lee
SG Footwear, Inc.
Skechers USA, Inc.
Street Cars, Inc.
The Rockport Company
The Topline Corporation
Valley Lane Industries
Wolverine World Wide

EXECUTIVE COMMITTEE

Ron Fromm, Brown Shoe Company, Chairman
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Debbie Kocks, Wal-Mart Stores, Inc.*
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Laurence Tarica, Jimlar Corporation
Alan Luchette, Jones Apparel/Nine West Group
Robert Cooperstein, Mercury International
William Snowden, Sr., The Topline Corporation
LuAnne Via, Sears, Roebuck and Company
Steve Duffy, Wolverine World Wide
Cecil McDermott, J.C. Penney
Rick Thornton, The Stride Rite Corporation
Matt Rubel, Payless ShoeSource
Pamela Salkovitz, The Stride Rite Corporation*
Jeff Shepard, Meldisco

EX–OFFICIO

Robert Campbell, BBC International
Irving Wiseman, Mercury International
Joseph Russell, Elan-Polo, Inc., Chairman
*Alternate member

Payless ShoeSouce, Inc.
Topeka, Kansas 66601
September 1, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

We are submitting these comments in response to the Subcommittee=s request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, we wish to express our support for the following bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
H.R. 3389—To suspend temporarily the duty on certain footwear for girls.
H.R. 3391—To suspend temporarily the duty on certain athletic footwear.
H.R. 3392—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—To suspend temporarily the duty on certain work footwear.
H.R. 3394—To suspend temporarily the duty on certain work footwear.
H.R. 3395—To suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.

H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Payless ShoeSource, Inc. is the Western Hemisphere's largest family footwear retailer, with over 4,600 stores across the United States, Canada, Central America and the Caribbean. The vast majority of those stores are located in the U.S. The Company employs over 27,000 associates worldwide.

Over the last 20 years, the production of footwear in the United States has dwindled to practically nothing. The footwear manufacturers still in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes.

Most footwear duties are therefore out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The above bills would eliminate the duties on several types of footwear but they have been carefully drafted so as not to affect the few remaining types which are still manufactured in the United States.

Duty-free entry of footwear would benefit the U.S. customer. The movement towards duty-free footwear would also be consistent with the overall direction the United States has taken in recently negotiated free trade agreements in Latin America.

Negotiations of the DR–CAFTA and the last miscellaneous tariff bill both served to engage the remaining domestic footwear interests in a discussion of exactly which types of shoes are still made in this country. As a result of those negotiations, all but 17 of the 115 shoe classifications codified under the Harmonized Tariff Schedule will be able to enter the U.S. duty-free from the Caribbean Basin countries and the Central American nations which become signatories to the DR–CAFTA.

To the extent any domestic footwear production still requires duty protection, that field has been clearly drawn to include only 17 shoe types. To avoid controversy, those 17 types are unaffected by the above bills.

As the members of the Subcommittee are aware, tariff bills of this nature contain explicit references to 8-digit HTS numbers. The text of the bills, though, describes shoes types which are identifiable at the more specific 10-digit HTS level. Thus, the fiscal impact of these bills is limited to the more narrowly described footwear types and is of a much lower magnitude than might otherwise be suggested by an analysis at the 8-digit level.

In summary, eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months. Also, the bills are designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me or Nicole Bivens Collinson of Sandler, Travis & Rosenberg, P.A., if you have any questions on these provisions or require additional information.

Sincerely,

Michael J. Massey
Senior Vice President
General Counsel and Secretary

Retail Industry Leaders Association
Arlington, Virginia 22209
September 2, 2005

The Honorable E. Clay Shaw
Chairman
House Ways & Means Trade Subcommittee
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Retail Industry Leaders Association (RILA), we welcome the opportunity to submit comments on technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. There are several provisions that RILA

strongly supports or opposes in the list of potential bills to be included in the Miscellaneous Trade Bill.

By way of background, RILA is an alliance of the world's most successful and innovative retailer and supplier companies—the leaders of the retail industry. RILA members represent almost $1.4 trillion in sales annually and operate more than 100,000 stores, manufacturing facilities and distribution centers nationwide. Its member retailers and suppliers have facilities in all 50 states, as well as internationally, and employ millions of workers domestically and worldwide. Through RILA, leaders in the critical disciplines of the retail industry work together to improve their businesses and the industry as a whole.

H.R. 1121—A bill to repeal section 754 of the Tariff Act of 1930

RILA strongly supports the inclusion of H.R. 1121 in the Miscellaneous Trade and Tariff bill. Repeal of the "Byrd Amendment" is a top priority for RILA and its members. The Byrd Amendment annually funnels money collected from antidumping and countervailing duty cases directly to companies that file petitions. These payouts create a perverse incentive for companies to file petitions and add an increasing number of product categories to those petitions in hopes of collecting a financial windfall. In addition, the presence of the Byrd Amendment impedes the settlement of trade cases because of the financial incentive given to the petitioners.

Since enactment of the amendment, the number of antidumping petitions filed on consumer ready products has increased. As a result of the amendment, more than $1 billion has been distributed to domestic petitioners with no strings attached and with no measurable increase to competitiveness. Repeal would not affect the operation of antidumping and countervailing duty laws, but would remove the perverse incentive to file cases and would keep revenue collected in the government treasury to be spent in a more appropriate way. Congress should support "fair-trade" that creates a level playing field for everyone, not just import-sensitive domestic industries.

In January 2003, the World Trade Organization Appellate Body affirmed an earlier ruling that the "Byrd Amendment" was a violation of U.S. WTO obligations. The U.S. should live up to its international obligations. The U.S. is now facing retaliatory tariffs from several countries on a wide range of products for not repealing the Byrd Amendment. In a time when export trade is so important to our economy, unnecessary duties stifle exports and cause widespread layoffs while corporate subsidies do nothing to enhance the competitiveness of domestic industries.

Consumers are the real losers in this process. By encouraging protectionist behavior, the Byrd Amendment drives up prices for American consumer by encouraging trade defense actions that can increase the cost of consumer goods. The taxpayer funds distributed as a result of the law could be better used for other purposes.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture

RILA strongly opposes this bill. Such a labeling provision is unnecessary and adds additional burdens and costs to importers and retailers. Under section 304 of the Tariff Act of 1930, imported home furniture is already required to have a permanent country of origin marking. We do not believe an additional labeling requirement is useful or appropriate.

Duty Suspension Bills

RILA supports the following duty suspension bills:

H.R. 3308—A bill to suspend temporarily the duty on erasers.

H.R. 3309—A bill to suspend temporarily the duty on nail clippers.

H.R. 3310—A bill to suspend temporarily the duty on artificial flowers.

H.R. 3311—A bill to suspend temporarily the duty on electric pencil sharpeners.

We believe that these products are not made in the United States in commercial quantities sufficient to satisfy RILA members and their customers. As well, the duty on these products averages less than 5%.

RILA also supports the following footwear duty suspension bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.

H.R. 3386—A bill to suspend temporarily the duty on certain footwear with open toes or heels.

H.R. 3387—A bill to suspend temporarily the duty on certain work footwear.

H.R. 3388—A bill to suspend temporarily the duty on certain women's footwear.

H.R. 3389—A bill to suspend temporarily the duty on certain footwear for girls.

H.R. 3390—A bill to suspend temporarily the duty on certain protective footwear.

H.R. 3391—A bill to suspend temporarily the duty on certain athletic footwear.

H.R. 3392—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3394—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3395—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Production of footwear in the United States has significantly declined over the last 20 years. Footwear manufacturers in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes

As a result, most of the current footwear duties are out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The footwear duty suspension bills being considered would eliminate the duties on several types of footwear, but will not affect the few remaining sensitive footwear categories which are still produced in the United States.

Eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

Conclusion

Thank you for the opportunity to submit comments on the Miscellaneous Trade and Tariff bill. If you have any questions, please contact Lori Denham, RILA's Senior Vice President for Policy and Planning or Jonathan Gold, RILA's Vice President Global Supply Chain Policy.

Sincerely,

Sandra L. Kennedy
President

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its support for the following bills:

H.R.3308—To suspend temporarily the duty on erasers.
H.R.3309—To suspend temporarily the duty on nail clippers.
H.R.3310—To suspend temporarily the duty on artificial flowers.
H.R.3311—To suspend temporarily the duty on electrically operated pencil sharpeners.
H.R.2477—To suspend, temporarily the duty on bicycle speedometers.

H.R.2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-angle reflectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.
H.R.2479—To suspend temporarily the duty on unicycles.
H.R.2556—To suspend temporarily the duty on air freshener electric devices with warmer units.
H.R.2557—To suspend temporarily the duty on air freshener electric devices.
H.R.2817—To suspend temporarily the duty on certain basketballs.
H.R.2818—To suspend temporarily the duty on certain leather basketballs.
H.R.2819—To suspend temporarily the duty on certain rubber basketballs.
H.R.2820—To suspend temporarily the duty on certain volleyballs.
H.R.2821—To suspend temporarily the duty on certain synthetic basketballs.
H.R.3033—To (1) provide duty-free treatment for certain educational devices; and (2) extend such treatment through December 31, 2008.
H.R.3112—To suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
H.R.3113—To suspend temporarily the duty on certain cups, with or without saucers, of porcelain or china.
H.R.3114—To suspend temporarily the duty on certain flags.
H.R.3115—To suspend temporarily the duty on certain clocks.
H.R.3116—To suspend temporarily the duty on certain glass articles.
H.R.3117—To suspend temporarily the duty on certain glass articles of lead crystal.
H.R.3118—To suspend temporarily the duty on certain music boxes.
H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R.3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R.3387—To suspend temporarily the duty on certain work footwear.
H.R.3388—To suspend temporarily the duty on certain women's footwear.
H.R.3389—To suspend temporarily the duty on certain footwear for girls.
H.R.3391—To suspend temporarily the duty on certain athletic footwear.
H.R.3392—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R.3393—To suspend temporarily the duty on certain work footwear.
H.R.3394—To suspend temporarily the duty on certain work footwear.
H.R. 3395—To suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear—
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

Retail Industry Leaders Association
Arlington, Virginia 22209
September 2, 2005

The Honorable E. Clay Shaw
Chairman
House Ways & Means Trade Subcommittee
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Retail Industry Leaders Association (RILA), we welcome the opportunity to submit comments on technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. There are several provisions that RILA strongly supports or opposes in the list of potential bills to be included in the Miscellaneous Trade Bill.

By way of background, RILA is an alliance of the world's most successful and innovative retailer and supplier companies—the leaders of the retail industry. RILA members represent almost $1.4 trillion in sales annually and operate more than 100,000 stores, manufacturing facilities and distribution centers nationwide. Its member retailers and suppliers have facilities in all 50 states, as well as internationally, and employ millions of workers domestically and worldwide. Through RILA, leaders in the critical disciplines of the retail industry work together to improve their businesses and the industry as a whole.

H.R. 1121—A bill to repeal section 754 of the Tariff Act of 1930

RILA strongly supports the inclusion of H.R. 1121 in the Miscellaneous Trade and Tariff bill. Repeal of the "Byrd Amendment" is a top priority for RILA and its members. The Byrd Amendment annually funnels money collected from antidumping and countervailing duty cases directly to companies that file petitions. These payouts create a perverse incentive for companies to file petitions and add an increasing number of product categories to those petitions in hopes of collecting a financial windfall. In addition, the presence of the Byrd Amendment impedes the settlement of trade cases because of the financial incentive given to the petitioners.

Since enactment of the amendment, the number of antidumping petitions filed on consumer ready products has increased. As a result of the amendment, more than $1 billion has been distributed to domestic petitioners with no strings attached and with no measurable increase to competitiveness. Repeal would not affect the operation of antidumping and countervailing duty laws, but would remove the perverse incentive to file cases and would keep revenue collected in the government treasury to be spent in a more appropriate way. Congress should support "fair-trade" that creates a level playing field for everyone, not just import-sensitive domestic industries.

In January 2003, the World Trade Organization Appellate Body affirmed an earlier ruling that the "Byrd Amendment" was a violation of U.S. WTO obligations. The U.S. should live up to its international obligations. The U.S. is now facing retaliatory tariffs from several countries on a wide range of products for not repealing the Byrd Amendment. In a time when export trade is so important to our economy, unnecessary duties stifle exports and cause widespread layoffs while corporate subsidies do nothing to enhance the competitiveness of domestic industries.

Consumers are the real losers in this process. By encouraging protectionist behavior, the Byrd Amendment drives up prices for American consumer by encouraging trade defense actions that can increase the cost of consumer goods. The taxpayer funds distributed as a result of the law could be better used for other purposes.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture

RILA strongly opposes this bill. Such a labeling provision is unnecessary and adds additional burdens and costs to importers and retailers. Under section 304 of the Tariff Act of 1930, imported home furniture is already required to have a permanent country of origin marking. We do not believe an additional labeling requirement is useful or appropriate.

Duty Suspension Bills

RILA supports the following duty suspension bills:

H.R. 3308—A bill to suspend temporarily the duty on erasers.
H.R. 3309—A bill to suspend temporarily the duty on nail clippers.
H.R. 3310—A bill to suspend temporarily the duty on artificial flowers.
H.R. 3311—A bill to suspend temporarily the duty on electric pencil sharpeners.

We believe that these products are not made in the United States in commercial quantities sufficient to satisfy RILA members and their customers. As well, the duty on these products averages less than 5%.

RILA also supports the following footwear duty suspension bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3388—A bill to suspend temporarily the duty on certain women's footwear.
H.R. 3389—A bill to suspend temporarily the duty on certain footwear for girls.
H.R. 3390—A bill to suspend temporarily the duty on certain protective footwear.
H.R. 3391—A bill to suspend temporarily the duty on certain athletic footwear.
H.R. 3392—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3394—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3395—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Production of footwear in the United States has significantly declined over the last 20 years. Footwear manufacturers in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes

As a result, most of the current footwear duties are out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The footwear duty suspension bills being considered would eliminate the duties on several types of footwear, but will not affect the few remaining sensitive footwear categories which are still produced in the United States.

Eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

Conclusion

Thank you for the opportunity to submit comments on the Miscellaneous Trade and Tariff bill. If you have any questions, please contact Lori Denham, RILA's Senior Vice President for Policy and Planning or Jonathan Gold, RILA's Vice President Global Supply Chain Policy.

Sincerely,

Sandra L. Kennedy
President

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman
Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20215

Dear Chairman Shaw:

On behalf of the American Apparel and Footwear Association—the national trade association of the apparel and footwear industries, and their suppliers—I am writ-

ing to express strong support for the following bills identified in the subject advisory.

HR 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements.

Comment: AAFA strongly supports this legislation and believes it is long overdue. The Committee for the Implementation of Textile Agreements (CITA) is responsible for far reaching decisions that deeply affect most AAFA members yet its actions are almost always taken behind closed doors with insufficient public scrutiny. This lack of transparency creates a highly unpredictable environment that is often perceived as being unfair. Recently, CITA has published guidelines to introduce some predictability into its deliberations. While we applaud those limited moves as a step in the right direction, we believe they are insufficient to provide the full accountability necessary for an intergovernmental agency which such responsibilities. Moreover, CITA has at times disregarded its own published guidelines as it has implemented China safeguard and short supply procedures. As a result, AAFA supports bringing CITA under the full jurisdiction of the Administrative Procedures Act.

HR 1121—A bill to repeal section 754 of the Tariff Act of 1930.

Comment: AAFA strongly supports the repeal of the Byrd Amendment. The Byrd legislation was enacted outside of the regular legislative process, by committees that do not enjoy primary jurisdiction over trade issues, and with no opportunity for public comment. Moreover, as has been found by the World Trade Organization (WTO), this provision puts the United States out of compliance with its WTO obligations. In fact, the European Union is currently assessing penalties on U.S. produced clothing in retaliation. Other countries have threatened to do the same. AAFA believes repeal of this abominable provision should be made a priority.

HR 1221, HR 3386, HR 3387, HR 3388, HR 3389, HR 3391, HR 3392, HR 3393, HR 3394, HR 3395, HR 3483, HR 3484, HR 3485, HR 3486, HR 3487, HR 3488, HR 3489, HR 3490, HR 3491—Duty suspensions with respect to various footwear articles. [Note: This does not include HR 3390, which we understand has been withdrawn.]

Comment. AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

HR 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.

Comment: AAFA strongly supports this legislation. Our association supported an earlier version of this legislation in the 108th Congress. This legislation would result in duty reductions for cotton fabrics that are already designated in short supply under various trade preference programs because these fabrics are unavailable in the United States and in the preference countries. Given that finished shirts may enter duty free using these fabrics, we believe it is also appropriate to permit the fabrics themselves to enter duty free. Thus, U.S. domestic manufacturers of shirts will be able to enjoy equal access to those same high quality fabrics that foreign based manufacturers enjoy.

HR 2589/HR 2590—Two bills to extend the temporary suspension of duty on certain filament yarns

Comment. AAFA strongly supports these provisions. AAFA was involved in the development of the original legislation and understand that the conditions that led to successful passage of the original legislation, including the fact that the yarns in question are not produced domestically, continue to exist. Thus, these provisions should be extended.

HR 1230—A bill to extend trade benefits to certain tents imported into the United States.

Comments. AAFA strongly supports this provision. This legislation relates to certain camping tents which are not made in the United States. Moreover, similar but slightly smaller tents, differentiated only by the fact that they are classified as "backpacking" tents, already enjoy duty free treatment. This provision would correct that anomaly.

In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment

of such provisions may also facilitate proper findings of short supply for those programs, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

Footwear Distributors and Retailers of America
Washington, DC 20004
September 2, 2005

The Hon. E. Clay Shaw
Chairman
House Ways and Means Subcommittee on Trade
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw,

This letter is being submitted by the Footwear Distributors and Retailers of America (FDRA) and its members in response to the Subcommittee's request for comments on *Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills.*

FDRA's members comprise U.S. footwear distributors and retailers that, together, account for approximately 80 percent of footwear sales at retail in the United States. Also, imports now account for 99 percent of U.S. consumption of footwear. In other words, the U.S. footwear market comprises nearly all imports; any remaining U.S. production competes on basis other than price and is not affected by the elimination of tariffs.

FDRA and its members support the elimination of tariffs on footwear via all vehicles, including through legislation, free trade agreements and the current WTO Doha Round negotiations. FDRA recognizes the Committee's established practice of considering legislation to temporarily suspend duties on products only where annual revenue losses from duty suspensions total approximately $500,000 or less. FDRA understands that revenue losses from duty suspensions under H.R. 3487 are higher, but the amount remains modest and eliminating these tariffs will benefit FDRA and its member companies and in no way affect any domestic production. Therefore, FDRA supports passage of H.R. 1221, H.R. 3386, H.R. 3387, H.R. 3388, H.R. 3389, H.R. 3391, H.R. 3392, H.R. 3393, H.R. 3394, H.R. 3395, H.R. 3483, H.R. 3484, H.R. 3485, H.R. 3486, H.R. 3487, H.R. 3488, H.R. 3489, H.R. 3490 and H.R. 3491.

Peter T. Mangione

Footwear Distributors and Retailers of America

Retailer Members

Bakers Footwear Group
Brown Shoe Company
Clarks Companies
Designer Shoe Warehouse (DSW)
Famous Footwear
FOOTACTIONUSA
Foot Locker, Inc.
Footstar, Inc.
Gap, Inc.
Genesco, Inc.
J.C. Penney Company
Meldisco
Naturalizer Retail
Payless ShoeSource
Sears, Roebuck & Company
Rack Room Shoes
Retail Ventures, Inc.
The Stride Rite Corporation
Value City
Vans, Inc.
Wal-Mart

Distributor Members

ACI
Aerogroup Int., Inc.
ASICS Tiger Corporation
ATSCO Footwear, Inc.
AZALEIA
BBC International
BCNY International Inc.
Bennett Footwear Group
Cels Enterprises
C.O. Lynch
Cole Haan
Converse
Drew Shoe Corporation
Dynasty Footwear

Elan-Polo, Inc.
E.S. Originals
Global Brand Marketing, Inc.
Green Market Services
HYI
H.H. Brown Shoe Company
Inter Pacific Corporation
Jimlar Corporation
K–Swiss, Inc.
Jones Apparel/Nine West
Laird, Ltd
LJO, Inc
Mark Tucker, Inc.
Mephisto USA
Mercury International
Nike, Inc.
Olem Shoe Corporation
Prima Group Traders, Inc.
RANNA, Inc.
Reef
Reebok International
Renaissance Imports
Right Stuff, Inc.
Salland Industries LTD
Sara Lee
SG Footwear, Inc.
Skechers USA, Inc.
Street Cars, Inc.
The Rockport Company
The Topline Corporation
Valley Lane Industries
Wolverine World Wide

EXECUTIVE COMMITTEE

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Cecil McDermott, J.C. Penney
Rick Thornton, The Stride Rite Corporation
Matt Rubel, Payless ShoeSource
Pamela Salkovitz, The Stride Rite Corporation*
Jeff Shepard, Meldisco

EX–OFFICIO

Robert Campbell, BBC International
Irving Wiseman, Mercury International
Joseph Russell, Elan-Polo, Inc., Chairman
*Alternate member

Payless ShoeSouce, Inc.
Topeka, Kansas 66601
September 1, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

We are submitting these comments in response to the Subcommittee=s request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, we wish to express our support for the following bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
H.R. 3389—To suspend temporarily the duty on certain footwear for girls.

H.R. 3391—To suspend temporarily the duty on certain athletic footwear.
H.R. 3392—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—To suspend temporarily the duty on certain work footwear.
H.R. 3394—To suspend temporarily the duty on certain work footwear.
H.R. 3395—To suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Payless ShoeSource, Inc. is the Western Hemisphere's largest family footwear retailer, with over 4,600 stores across the United States, Canada, Central America and the Caribbean. The vast majority of those stores are located in the U.S. The Company employs over 27,000 associates worldwide.

Over the last 20 years, the production of footwear in the United States has dwindled to practically nothing. The footwear manufacturers still in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes.

Most footwear duties are therefore out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The above bills would eliminate the duties on several types of footwear but they have been carefully drafted so as not to affect the few remaining types which are still manufactured in the United States.

Duty-free entry of footwear would benefit the U.S. customer. The movement towards duty-free footwear would also be consistent with the overall direction the United States has taken in recently negotiated free trade agreements in Latin America.

Negotiations of the DR–CAFTA and the last miscellaneous tariff bill both served to engage the remaining domestic footwear interests in a discussion of exactly which types of shoes are still made in this country. As a result of those negotiations, all but 17 of the 115 shoe classifications codified under the Harmonized Tariff Schedule will be able to enter the U.S. duty-free from the Caribbean Basin countries and the Central American nations which become signatories to the DR–CAFTA.

To the extent any domestic footwear production still requires duty protection, that field has been clearly drawn to include only 17 shoe types. To avoid controversy, those 17 types are unaffected by the above bills.

As the members of the Subcommittee are aware, tariff bills of this nature contain explicit references to 8-digit HTS numbers. The text of the bills, though, describes shoes types which are identifiable at the more specific 10-digit HTS level. Thus, the fiscal impact of these bills is limited to the more narrowly described footwear types and is of a much lower magnitude than might otherwise be suggested by an analysis at the 8-digit level.

In summary, eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months. Also, the bills are designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me or Nicole Bivens Collinson of Sandler, Travis & Rosenberg, P.A., if you have any questions on these provisions or require additional information.

Sincerely,

Michael J. Massey
Senior Vice President
General Counsel and Secretary

Retail Industry Leaders Association
Arlington, Virginia 22209
September 2, 2005

The Honorable E. Clay Shaw
Chairman
House Ways & Means Trade Subcommittee
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Retail Industry Leaders Association (RILA), we welcome the opportunity to submit comments on technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. There are several provisions that RILA strongly supports or opposes in the list of potential bills to be included in the Miscellaneous Trade Bill.

By way of background, RILA is an alliance of the world's most successful and innovative retailer and supplier companies—the leaders of the retail industry. RILA members represent almost $1.4 trillion in sales annually and operate more than 100,000 stores, manufacturing facilities and distribution centers nationwide. Its member retailers and suppliers have facilities in all 50 states, as well as internationally, and employ millions of workers domestically and worldwide. Through RILA, leaders in the critical disciplines of the retail industry work together to improve their businesses and the industry as a whole.

H.R. 1121—A bill to repeal section 754 of the Tariff Act of 1930

RILA strongly supports the inclusion of H.R. 1121 in the Miscellaneous Trade and Tariff bill. Repeal of the "Byrd Amendment" is a top priority for RILA and its members. The Byrd Amendment annually funnels money collected from antidumping and countervailing duty cases directly to companies that file petitions. These payouts create a perverse incentive for companies to file petitions and add an increasing number of product categories to those petitions in hopes of collecting a financial windfall. In addition, the presence of the Byrd Amendment impedes the settlement of trade cases because of the financial incentive given to the petitioners.

Since enactment of the amendment, the number of antidumping petitions filed on consumer ready products has increased. As a result of the amendment, more than $1 billion has been distributed to domestic petitioners with no strings attached and with no measurable increase to competitiveness. Repeal would not affect the operation of antidumping and countervailing duty laws, but would remove the perverse incentive to file cases and would keep revenue collected in the government treasury to be spent in a more appropriate way. Congress should support "fair-trade" that creates a level playing field for everyone, not just import-sensitive domestic industries.

In January 2003, the World Trade Organization Appellate Body affirmed an earlier ruling that the "Byrd Amendment" was a violation of U.S. WTO obligations. The U.S. should live up to its international obligations. The U.S. is now facing retaliatory tariffs from several countries on a wide range of products for not repealing the Byrd Amendment. In a time when export trade is so important to our economy, unnecessary duties stifle exports and cause widespread layoffs while corporate subsidies do nothing to enhance the competitiveness of domestic industries.

Consumers are the real losers in this process. By encouraging protectionist behavior, the Byrd Amendment drives up prices for American consumer by encouraging trade defense actions that can increase the cost of consumer goods. The taxpayer funds distributed as a result of the law could be better used for other purposes.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture

RILA strongly opposes this bill. Such a labeling provision is unnecessary and adds additional burdens and costs to importers and retailers. Under section 304 of the Tariff Act of 1930, imported home furniture is already required to have a permanent country of origin marking. We do not believe an additional labeling requirement is useful or appropriate.

Duty Suspension Bills

RILA supports the following duty suspension bills:

H.R. 3308—A bill to suspend temporarily the duty on erasers.
H.R. 3309—A bill to suspend temporarily the duty on nail clippers.
H.R. 3310—A bill to suspend temporarily the duty on artificial flowers.
H.R. 3311—A bill to suspend temporarily the duty on electric pencil sharpeners.

We believe that these products are not made in the United States in commercial quantities sufficient to satisfy RILA members and their customers. As well, the duty on these products averages less than 5%.

RILA also supports the following footwear duty suspension bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3388—A bill to suspend temporarily the duty on certain women's footwear.
H.R. 3389—A bill to suspend temporarily the duty on certain footwear for girls.
H.R. 3390—A bill to suspend temporarily the duty on certain protective footwear.
H.R. 3391—A bill to suspend temporarily the duty on certain athletic footwear.
H.R. 3392—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3394—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3395—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Production of footwear in the United States has significantly declined over the last 20 years. Footwear manufacturers in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes

As a result, most of the current footwear duties are out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The footwear duty suspension bills being considered would eliminate the duties on several types of footwear, but will not affect the few remaining sensitive footwear categories which are still produced in the United States.

Eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

Conclusion

Thank you for the opportunity to submit comments on the Miscellaneous Trade and Tariff bill. If you have any questions, please contact Lori Denham, RILA's Senior Vice President for Policy and Planning or Jonathan Gold, RILA's Vice President Global Supply Chain Policy.

Sincerely,

Sandra L. Kennedy
President

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its support for the following bills:

H.R.3308—To suspend temporarily the duty on erasers.
H.R.3309—To suspend temporarily the duty on nail clippers.
H.R.3310—To suspend temporarily the duty on artificial flowers.
H.R.3311—To suspend temporarily the duty on electrically operated pencil sharpeners.
H.R.2477—To suspend, temporarily the duty on bicycle speedometers.
H.R.2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-angle reflectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.
H.R.2479—To suspend temporarily the duty on unicycles.
H.R.2556—To suspend temporarily the duty on air freshener electric devices with warmer units.
H.R.2557—To suspend temporarily the duty on air freshener electric devices.
H.R.2817—To suspend temporarily the duty on certain basketballs.
H.R.2818—To suspend temporarily the duty on certain leather basketballs.
H.R.2819—To suspend temporarily the duty on certain rubber basketballs.
H.R.2820—To suspend temporarily the duty on certain volleyballs.
H.R.2821—To suspend temporarily the duty on certain synthetic basketballs.
H.R.3033—To (1) provide duty-free treatment for certain educational devices; and (2) extend such treatment through December 31, 2008.
H.R.3112—To suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
H.R.3113—To suspend temporarily the duty on certain cups, with or without saucers, of porcelain or china.
H.R.3114—To suspend temporarily the duty on certain flags.
H.R.3115—To suspend temporarily the duty on certain clocks.
H.R.3116—To suspend temporarily the duty on certain glass articles.
H.R.3117—To suspend temporarily the duty on certain glass articles of lead crystal.
H.R.3118—To suspend temporarily the duty on certain music boxes.
H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R.3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R.3387—To suspend temporarily the duty on certain work footwear.
H.R.3388—To suspend temporarily the duty on certain women's footwear.
H.R.3389—To suspend temporarily the duty on certain footwear for girls.
H.R.3391—To suspend temporarily the duty on certain athletic footwear.
H.R.3392—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R.3393—To suspend temporarily the duty on certain work footwear.
H.R.3394—To suspend temporarily the duty on certain work footwear.
H.R. 3395—To suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.

H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear.
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman
Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20215

Dear Chairman Shaw:

On behalf of the American Apparel and Footwear Association—the national trade association of the apparel and footwear industries, and their suppliers—I am writing to express strong support for the following bills identified in the subject advisory.

HR 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements.

Comment: AAFA strongly supports this legislation and believes it is long overdue. The Committee for the Implementation of Textile Agreements (CITA) is responsible for far reaching decisions that deeply affect most AAFA members yet its actions are almost always taken behind closed doors with insufficient public scrutiny. This lack of transparency creates a highly unpredictable environment that is often perceived as being unfair. Recently, CITA has published guidelines to introduce some predictability into its deliberations. While we applaud those limited moves as a step in the right direction, we believe they are insufficient to provide the full accountability necessary for an intergovernmental agency which such responsibilities. Moreover, CITA has at times disregarded its own published guidelines as it has implemented China safeguard and short supply procedures. As a result, AAFA supports bringing CITA under the full jurisdiction of the Administrative Procedures Act.

HR 1121—A bill to repeal section 754 of the Tariff Act of 1930.

Comment: AAFA strongly supports the repeal of the Byrd Amendment. The Byrd legislation was enacted outside of the regular legislative process, by committees that do not enjoy primary jurisdiction over trade issues, and with no opportunity for public comment. Moreover, as has been found by the World Trade Organization (WTO), this provision puts the United States out of compliance with its WTO obligations. In fact, the European Union is currently assessing penalties on U.S. produced clothing in retaliation. Other countries have threatened to do the same. AAFA believes repeal of this abominable provision should be made a priority.

HR 1221, HR 3386, HR 3387, HR 3388, HR 3389, HR 3391, HR 3392, HR 3393, HR 3394, HR 3395, HR 3483, HR 3484, HR 3485, HR 3486, HR 3487, HR 3488, HR 3489, HR 3490, HR 3491—Duty suspensions with respect to various footwear

articles. [Note: This does not include HR 3390, which we understand has been withdrawn.]

Comment. AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

HR 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.

Comment: AAFA strongly supports this legislation. Our association supported an earlier version of this legislation in the 108th Congress. This legislation would result in duty reductions for cotton fabrics that are already designated in short supply under various trade preference programs because these fabrics are unavailable in the United States and in the preference countries. Given that finished shirts may enter duty free using these fabrics, we believe it is also appropriate to permit the fabrics themselves to enter duty free. Thus, U.S. domestic manufacturers of shirts will be able to enjoy equal access to those same high quality fabrics that foreign based manufacturers enjoy.

HR 2589/HR 2590—Two bills to extend the temporary suspension of duty on certain filament yarns

Comment. AAFA strongly supports these provisions. AAFA was involved in the development of the original legislation and understand that the conditions that led to successful passage of the original legislation, including the fact that the yarns in question are not produced domestically, continue to exist. Thus, these provisions should be extended.

HR 1230—A bill to extend trade benefits to certain tents imported into the United States.

Comments. AAFA strongly supports this provision. This legislation relates to certain camping tents which are not made in the United States. Moreover, similar but slightly smaller tents, differentiated only by the fact that they are classified as "backpacking" tents, already enjoy duty free treatment. This provision would correct that anomaly.

In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment of such provisions may also facilitate proper findings of short supply for those programs, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

Footwear Distributors and Retailers of America
Washington, DC 20004
September 2, 2005

The Hon. E. Clay Shaw
Chairman
House Ways and Means Subcommittee on Trade
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw,

This letter is being submitted by the Footwear Distributors and Retailers of America (FDRA) and its members in response to the Subcommittee's request for comments on *Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills.*

FDRA's members comprise U.S. footwear distributors and retailers that, together, account for approximately 80 percent of footwear sales at retail in the United States. Also, imports now account for 99 percent of U.S. consumption of footwear. In other words, the U.S. footwear market comprises nearly all imports; any remain-

ing U.S. production competes on basis other than price and is not affected by the elimination of tariffs.

FDRA and its members support the elimination of tariffs on footwear via all vehicles, including through legislation, free trade agreements and the current WTO Doha Round negotiations. FDRA recognizes the Committee's established practice of considering legislation to temporarily suspend duties on products only where annual revenue losses from duty suspensions total approximately $500,000 or less. FDRA understands that revenue losses from duty suspensions under H.R. 3487 are higher, but the amount remains modest and eliminating these tariffs will benefit FDRA and its member companies and in no way affect any domestic production. Therefore, FDRA supports passage of H.R. 1221, H.R. 3386, H.R. 3387, H.R. 3388, H.R. 3389, H.R. 3391, H.R. 3392, H.R. 3393, H.R. 3394, H.R. 3395, H.R. 3483, H.R. 3484, H.R. 3485, H.R. 3486, H.R. 3487, H.R. 3488, H.R. 3489, H.R. 3490 and H.R. 3491.

Peter T. Mangione

Footwear Distributors and Retailers of America

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Payless ShoeSource
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Mephisto USA
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Nike, Inc.
Olem Shoe Corporation
Prima Group Traders, Inc.
RANNA, Inc.
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Renaissance Imports
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Salland Industries LTD
Sara Lee
SG Footwear, Inc.
Skechers USA, Inc.
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The Rockport Company
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EXECUTIVE COMMITTEE

Ron Fromm, Brown Shoe Company, Chairman
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Matt Rubel, Payless ShoeSource
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Jeff Shepard, Meldisco

EX–OFFICIO

Robert Campbell, BBC International
Irving Wiseman, Mercury International
Joseph Russell, Elan-Polo, Inc., Chairman
*Alternate member

Payless ShoeSouce, Inc.
Topeka, Kansas 66601
September 1, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

We are submitting these comments in response to the Subcommittee=s request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, we wish to express our support for the following bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
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H.R. 3391—To suspend temporarily the duty on certain athletic footwear.
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H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Payless ShoeSource, Inc. is the Western Hemisphere's largest family footwear retailer, with over 4,600 stores across the United States, Canada, Central America and the Caribbean. The vast majority of those stores are located in the U.S. The Company employs over 27,000 associates worldwide.

Over the last 20 years, the production of footwear in the United States has dwindled to practically nothing. The footwear manufacturers still in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes.

Most footwear duties are therefore out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The above bills would eliminate the duties on several types of footwear but they have been carefully drafted so as not to affect the few remaining types which are still manufactured in the United States.

Duty-free entry of footwear would benefit the U.S. customer. The movement towards duty-free footwear would also be consistent with the overall direction the

United States has taken in recently negotiated free trade agreements in Latin America.

Negotiations of the DR–CAFTA and the last miscellaneous tariff bill both served to engage the remaining domestic footwear interests in a discussion of exactly which types of shoes are still made in this country. As a result of those negotiations, all but 17 of the 115 shoe classifications codified under the Harmonized Tariff Schedule will be able to enter the U.S. duty-free from the Caribbean Basin countries and the Central American nations which become signatories to the DR–CAFTA.

To the extent any domestic footwear production still requires duty protection, that field has been clearly drawn to include only 17 shoe types. To avoid controversy, those 17 types are unaffected by the above bills.

As the members of the Subcommittee are aware, tariff bills of this nature contain explicit references to 8-digit HTS numbers. The text of the bills, though, describes shoes types which are identifiable at the more specific 10-digit HTS level. Thus, the fiscal impact of these bills is limited to the more narrowly described footwear types and is of a much lower magnitude than might otherwise be suggested by an analysis at the 8-digit level.

In summary, eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months. Also, the bills are designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me or Nicole Bivens Collinson of Sandler, Travis & Rosenberg, P.A., if you have any questions on these provisions or require additional information.

Sincerely,

Michael J. Massey
Senior Vice President
General Counsel and Secretary

Retail Industry Leaders Association
Arlington, Virginia 22209
September 2, 2005

The Honorable E. Clay Shaw
Chairman
House Ways & Means Trade Subcommittee
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Retail Industry Leaders Association (RILA), we welcome the opportunity to submit comments on technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. There are several provisions that RILA strongly supports or opposes in the list of potential bills to be included in the Miscellaneous Trade Bill.

By way of background, RILA is an alliance of the world's most successful and innovative retailer and supplier companies—the leaders of the retail industry. RILA members represent almost $1.4 trillion in sales annually and operate more than 100,000 stores, manufacturing facilities and distribution centers nationwide. Its member retailers and suppliers have facilities in all 50 states, as well as internationally, and employ millions of workers domestically and worldwide. Through RILA, leaders in the critical disciplines of the retail industry work together to improve their businesses and the industry as a whole.

H.R. 1121—A bill to repeal section 754 of the Tariff Act of 1930

RILA strongly supports the inclusion of H.R. 1121 in the Miscellaneous Trade and Tariff bill. Repeal of the "Byrd Amendment" is a top priority for RILA and its members. The Byrd Amendment annually funnels money collected from antidumping and countervailing duty cases directly to companies that file petitions. These payouts create a perverse incentive for companies to file petitions and add an increasing number of product categories to those petitions in hopes of collecting a financial windfall. In addition, the presence of the Byrd Amendment impedes the settlement of trade cases because of the financial incentive given to the petitioners.

Since enactment of the amendment, the number of antidumping petitions filed on consumer ready products has increased. As a result of the amendment, more than $1 billion has been distributed to domestic petitioners with no strings attached and with no measurable increase to competitiveness. Repeal would not affect the operation of antidumping and countervailing duty laws, but would remove the perverse incentive to file cases and would keep revenue collected in the government treasury to be spent in a more appropriate way. Congress should support "fair-trade" that creates a level playing field for everyone, not just import-sensitive domestic industries.

In January 2003, the World Trade Organization Appellate Body affirmed an earlier ruling that the "Byrd Amendment" was a violation of U.S. WTO obligations. The U.S. should live up to its international obligations. The U.S. is now facing retaliatory tariffs from several countries on a wide range of products for not repealing the Byrd Amendment. In a time when export trade is so important to our economy, unnecessary duties stifle exports and cause widespread layoffs while corporate subsidies do nothing to enhance the competitiveness of domestic industries.

Consumers are the real losers in this process. By encouraging protectionist behavior, the Byrd Amendment drives up prices for American consumer by encouraging trade defense actions that can increase the cost of consumer goods. The taxpayer funds distributed as a result of the law could be better used for other purposes.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture

RILA strongly opposes this bill. Such a labeling provision is unnecessary and adds additional burdens and costs to importers and retailers. Under section 304 of the Tariff Act of 1930, imported home furniture is already required to have a permanent country of origin marking. We do not believe an additional labeling requirement is useful or appropriate.

Duty Suspension Bills

RILA supports the following duty suspension bills:

H.R. 3308—A bill to suspend temporarily the duty on erasers.
H.R. 3309—A bill to suspend temporarily the duty on nail clippers.
H.R. 3310—A bill to suspend temporarily the duty on artificial flowers.
H.R. 3311—A bill to suspend temporarily the duty on electric pencil sharpeners.

We believe that these products are not made in the United States in commercial quantities sufficient to satisfy RILA members and their customers. As well, the duty on these products averages less than 5%.

RILA also supports the following footwear duty suspension bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3388—A bill to suspend temporarily the duty on certain women's footwear.
H.R. 3389—A bill to suspend temporarily the duty on certain footwear for girls.
H.R. 3390—A bill to suspend temporarily the duty on certain protective footwear.
H.R. 3391—A bill to suspend temporarily the duty on certain athletic footwear.
H.R. 3392—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—A bill to suspend temporarily the duty on certain work footwear.
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H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Production of footwear in the United States has significantly declined over the last 20 years. Footwear manufacturers in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes

As a result, most of the current footwear duties are out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The footwear duty suspension bills being considered would eliminate the duties on several types of footwear, but will not affect the few remaining sensitive footwear categories which are still produced in the United States.

Eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

Conclusion

Thank you for the opportunity to submit comments on the Miscellaneous Trade and Tariff bill. If you have any questions, please contact Lori Denham, RILA's Senior Vice President for Policy and Planning or Jonathan Gold, RILA's Vice President Global Supply Chain Policy.

Sincerely,

Sandra L. Kennedy
President

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its support for the following bills:

H.R. 3308—To suspend temporarily the duty on erasers.
H.R. 3309—To suspend temporarily the duty on nail clippers.
H.R. 3310—To suspend temporarily the duty on artificial flowers.
H.R. 3311—To suspend temporarily the duty on electrically operated pencil sharpeners.
H.R. 2477—To suspend, temporarily the duty on bicycle speedometers.
H.R. 2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-angle reflectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.
H.R. 2479—To suspend temporarily the duty on unicycles.
H.R. 2556—To suspend temporarily the duty on air freshener electric devices with warmer units.
H.R. 2557—To suspend temporarily the duty on air freshener electric devices.
H.R. 2817—To suspend temporarily the duty on certain basketballs.
H.R. 2818—To suspend temporarily the duty on certain leather basketballs.
H.R. 2819—To suspend temporarily the duty on certain rubber basketballs.
H.R. 2820—To suspend temporarily the duty on certain volleyballs.
H.R. 2821—To suspend temporarily the duty on certain synthetic basketballs.
H.R. 3033—To (1) provide duty-free treatment for certain educational devices; and (2) extend such treatment through December 31, 2008.
H.R. 3112—To suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
H.R. 3113—To suspend temporarily the duty on certain cups, with or without saucers, of porcelain or china.

H.R. 3114—To suspend temporarily the duty on certain flags.
H.R. 3115—To suspend temporarily the duty on certain clocks.
H.R. 3116—To suspend temporarily the duty on certain glass articles.
H.R. 3117—To suspend temporarily the duty on certain glass articles of lead crystal.
H.R. 3118—To suspend temporarily the duty on certain music boxes.
H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
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H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman
Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20215

Dear Chairman Shaw:

On behalf of the American Apparel and Footwear Association—the national trade association of the apparel and footwear industries, and their suppliers—I am writing to express strong support for the following bills identified in the subject advisory.

HR 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements.

Comment: AAFA strongly supports this legislation and believes it is long overdue. The Committee for the Implementation of Textile Agreements (CITA) is responsible for far reaching decisions that deeply affect most AAFA members yet its actions are almost always taken behind closed doors with insufficient public scrutiny. This lack of transparency creates a highly unpredictable environment that is often

some predictability into its deliberations. While we applaud those limited moves as a step in the right direction, we believe they are insufficient to provide the full accountability necessary for an intergovernmental agency which such responsibilities. Moreover, CITA has at times disregarded its own published guidelines as it has implemented China safeguard and short supply procedures. As a result, AAFA supports bringing CITA under the full jurisdiction of the Administrative Procedures Act.

HR 1121—A bill to repeal section 754 of the Tariff Act of 1930.

Comment: AAFA strongly supports the repeal of the Byrd Amendment. The Byrd legislation was enacted outside of the regular legislative process, by committees that do not enjoy primary jurisdiction over trade issues, and with no opportunity for public comment. Moreover, as has been found by the World Trade Organization (WTO), this provision puts the United States out of compliance with its WTO obligations. In fact, the European Union is currently assessing penalties on U.S. produced clothing in retaliation. Other countries have threatened to do the same. AAFA believes repeal of this abominable provision should be made a priority.

HR 1221, HR 3386, HR 3387, HR 3388, HR 3389, HR 3391, HR 3392, HR 3393, HR 3394, HR 3395, HR 3483, HR 3484, HR 3485, HR 3486, HR 3487, HR 3488, HR 3489, HR 3490, HR 3491—Duty suspensions with respect to various footwear articles. [Note: This does not include HR 3390, which we understand has been withdrawn.]

Comment. AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

HR 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.

Comment: AAFA strongly supports this legislation. Our association supported an earlier version of this legislation in the 108th Congress. This legislation would result in duty reductions for cotton fabrics that are already designated in short supply under various trade preference programs because these fabrics are unavailable in the United States and in the preference countries. Given that finished shirts may enter duty free using these fabrics, we believe it is also appropriate to permit the fabrics themselves to enter duty free. Thus, U.S. domestic manufacturers of shirts will be able to enjoy equal access to those same high quality fabrics that foreign based manufacturers enjoy.

HR 2589/HR 2590—Two bills to extend the temporary suspension of duty on certain filament yarns

Comment. AAFA strongly supports these provisions. AAFA was involved in the development of the original legislation and understand that the conditions that led to successful passage of the original legislation, including the fact that the yarns in question are not produced domestically, continue to exist. Thus, these provisions should be extended.

HR 1230—A bill to extend trade benefits to certain tents imported into the United States.

Comments. AAFA strongly supports this provision. This legislation relates to certain camping tents which are not made in the United States. Moreover, similar but slightly smaller tents, differentiated only by the fact that they are classified as "backpacking" tents, already enjoy duty free treatment. This provision would correct that anomaly.

In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment of such provisions may also facilitate proper findings of short supply for those programs, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

Footwear Distributors and Retailers of America
Washington, DC 20004
September 2, 2005

The Hon. E. Clay Shaw
Chairman
House Ways and Means Subcommittee on Trade
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw,

This letter is being submitted by the Footwear Distributors and Retailers of America (FDRA) and its members in response to the Subcommittee's request for comments on *Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills.*

FDRA's members comprise U.S. footwear distributors and retailers that, together, account for approximately 80 percent of footwear sales at retail in the United States. Also, imports now account for 99 percent of U.S. consumption of footwear. In other words, the U.S. footwear market comprises nearly all imports; any remaining U.S. production competes on basis other than price and is not affected by the elimination of tariffs.

FDRA and its members support the elimination of tariffs on footwear via all vehicles, including through legislation, free trade agreements and the current WTO Doha Round negotiations. FDRA recognizes the Committee's established practice of considering legislation to temporarily suspend duties on products only where annual revenue losses from duty suspensions total approximately $500,000 or less. FDRA understands that revenue losses from duty suspensions under H.R. 3487 are higher, but the amount remains modest and eliminating these tariffs will benefit FDRA and its member companies and in no way affect any domestic production. Therefore, FDRA supports passage of H.R. 1221, H.R. 3386, H.R. 3387, H.R. 3388, H.R. 3389, H.R. 3391, H.R. 3392, H.R. 3393, H.R. 3394, H.R. 3395, H.R. 3483, H.R. 3484, H.R. 3485, H.R. 3486, H.R. 3487, H.R. 3488, H.R. 3489, H.R. 3490 and H.R. 3491.

Peter T. Mangione

Footwear Distributors and Retailers of America

Retailer Members

Bakers Footwear Group
Brown Shoe Company
Clarks Companies
Designer Shoe Warehouse (DSW)
Famous Footwear
FOOTACTIONUSA
Foot Locker, Inc.
Footstar, Inc.
Gap, Inc.
Genesco, Inc.
J.C. Penney Company
Meldisco
Naturalizer Retail
Payless ShoeSource
Sears, Roebuck & Company
Rack Room Shoes
Retail Ventures, Inc.
The Stride Rite Corporation
Value City
Vans, Inc.
Wal-Mart

Distributor Members

ACI
Aerogroup Int., Inc.
ASICS Tiger Corporation
ATSCO Footwear, Inc.
AZALÉIA
BBC International
BCNY International Inc.
Bennett Footwear Group
Cels Enterprises
C.O. Lynch
Cole Haan
Converse
Drew Shoe Corporation
Dynasty Footwear
Elan-Polo, Inc.
E.S. Originals
Global Brand Marketing, Inc.
Green Market Services
HYI
H.H. Brown Shoe Company
Inter Pacific Corporation
Jimlar Corporation
K–Swiss, Inc.
Jones Apparel/Nine West
Laird, Ltd
LJO, Inc
Mark Tucker, Inc.
Mephisto USA
Mercury International
Nike, Inc.
Olem Shoe Corporation
Prima Group Traders, Inc.

RANNA, Inc.
Reef
Reebok International
Renaissance Imports
Right Stuff, Inc.
Salland Industries LTD
Sara Lee
SG Footwear, Inc.
Skechers USA, Inc.
Street Cars, Inc.
The Rockport Company
The Topline Corporation
Valley Lane Industries
Wolverine World Wide

EXECUTIVE COMMITTEE

Ron Fromm, Brown Shoe Company, Chairman
Jim Issler, H.H. Brown Shoe Company, Vice-chairman
Killick Datta, Global Brand Marketing, Inc., Treasurer
Rick Mina, Foot Locker, Inc
Hal Pennington, Genesco, Inc.
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Melanie Owens, Wal-Mart Stores, Inc.*
Arthur Emmanuel, Wal-Mart Stores, Inc.
Debbie Kocks, Wal-Mart Stores, Inc.*
Greg Ribatt, Bennett Footwear Group
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Laurence Tarica, Jimlar Corporation
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LuAnne Via, Sears, Roebuck and Company
Steve Duffy, Wolverine World Wide
Cecil McDermott, J.C. Penney
Rick Thornton, The Stride Rite Corporation
Matt Rubel, Payless ShoeSource
Pamela Salkovitz, The Stride Rite Corporation*
Jeff Shepard, Meldisco

EX–OFFICIO

Robert Campbell, BBC International
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Payless ShoeSouce, Inc.
Topeka, Kansas 66601
September 1, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
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1106 Longworth House Office Building
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Dear Chairman Shaw and Ranking Member Cardin:

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Over the last 20 years, the production of footwear in the United States has dwindled to practically nothing. The footwear manufacturers still in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes.

Most footwear duties are therefore out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The above bills would eliminate the duties on several types of footwear but they have been carefully drafted so as not to affect the few remaining types which are still manufactured in the United States.

Duty-free entry of footwear would benefit the U.S. customer. The movement towards duty-free footwear would also be consistent with the overall direction the United States has taken in recently negotiated free trade agreements in Latin America.

Negotiations of the DR–CAFTA and the last miscellaneous tariff bill both served to engage the remaining domestic footwear interests in a discussion of exactly which types of shoes are still made in this country. As a result of those negotiations, all but 17 of the 115 shoe classifications codified under the Harmonized Tariff Schedule will be able to enter the U.S. duty-free from the Caribbean Basin countries and the Central American nations which become signatories to the DR–CAFTA.

To the extent any domestic footwear production still requires duty protection, that field has been clearly drawn to include only 17 shoe types. To avoid controversy, those 17 types are unaffected by the above bills.

As the members of the Subcommittee are aware, tariff bills of this nature contain explicit references to 8-digit HTS numbers. The text of the bills, though, describes shoes types which are identifiable at the more specific 10-digit HTS level. Thus, the fiscal impact of these bills is limited to the more narrowly described footwear types and is of a much lower magnitude than might otherwise be suggested by an analysis at the 8-digit level.

In summary, eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months. Also, the bills are designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me or Nicole Bivens Collinson of Sandler, Travis & Rosenberg, P.A., if you have any questions on these provisions or require additional information.

Sincerely,

Michael J. Massey
Senior Vice President
General Counsel and Secretary

Retail Industry Leaders Association
Arlington, Virginia 22209
September 2, 2005

The Honorable E. Clay Shaw
Chairman
House Ways & Means Trade Subcommittee
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Retail Industry Leaders Association (RILA), we welcome the opportunity to submit comments on technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. There are several provisions that RILA strongly supports or opposes in the list of potential bills to be included in the Miscellaneous Trade Bill.

By way of background, RILA is an alliance of the world's most successful and innovative retailer and supplier companies—the leaders of the retail industry. RILA members represent almost $1.4 trillion in sales annually and operate more than 100,000 stores, manufacturing facilities and distribution centers nationwide. Its member retailers and suppliers have facilities in all 50 states, as well as internationally, and employ millions of workers domestically and worldwide. Through RILA, leaders in the critical disciplines of the retail industry work together to improve their businesses and the industry as a whole.

H.R. 1121—A bill to repeal section 754 of the Tariff Act of 1930

RILA strongly supports the inclusion of H.R. 1121 in the Miscellaneous Trade and Tariff bill. Repeal of the "Byrd Amendment" is a top priority for RILA and its members. The Byrd Amendment annually funnels money collected from antidumping and countervailing duty cases directly to companies that file petitions. These payouts create a perverse incentive for companies to file petitions and add an increasing number of product categories to those petitions in hopes of collecting a financial windfall. In addition, the presence of the Byrd Amendment impedes the settlement of trade cases because of the financial incentive given to the petitioners.

Since enactment of the amendment, the number of antidumping petitions filed on consumer ready products has increased. As a result of the amendment, more than $1 billion has been distributed to domestic petitioners with no strings attached and with no measurable increase to competitiveness. Repeal would not affect the operation of antidumping and countervailing duty laws, but would remove the perverse incentive to file cases and would keep revenue collected in the government treasury to be spent in a more appropriate way. Congress should support "fair-trade" that creates a level playing field for everyone, not just import-sensitive domestic industries.

In January 2003, the World Trade Organization Appellate Body affirmed an earlier ruling that the "Byrd Amendment" was a violation of U.S. WTO obligations. The U.S. should live up to its international obligations. The U.S. is now facing retaliatory tariffs from several countries on a wide range of products for not repealing the Byrd Amendment. In a time when export trade is so important to our economy, unnecessary duties stifle exports and cause widespread layoffs while corporate subsidies do nothing to enhance the competitiveness of domestic industries.

Consumers are the real losers in this process. By encouraging protectionist behavior, the Byrd Amendment drives up prices for American consumer by encouraging trade defense actions that can increase the cost of consumer goods. The taxpayer funds distributed as a result of the law could be better used for other purposes.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture

RILA strongly opposes this bill. Such a labeling provision is unnecessary and adds additional burdens and costs to importers and retailers. Under section 304 of the Tariff Act of 1930, imported home furniture is already required to have a permanent country of origin marking. We do not believe an additional labeling requirement is useful or appropriate.

Duty Suspension Bills

RILA supports the following duty suspension bills:

H.R. 3308—A bill to suspend temporarily the duty on erasers.
H.R. 3309—A bill to suspend temporarily the duty on nail clippers.
H.R. 3310—A bill to suspend temporarily the duty on artificial flowers.
H.R. 3311—A bill to suspend temporarily the duty on electric pencil sharpeners.

We believe that these products are not made in the United States in commercial quantities sufficient to satisfy RILA members and their customers. As well, the duty on these products averages less than 5%.

RILA also supports the following footwear duty suspension bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3388—A bill to suspend temporarily the duty on certain women's footwear.
H.R. 3389—A bill to suspend temporarily the duty on certain footwear for girls.
H.R. 3390—A bill to suspend temporarily the duty on certain protective footwear.
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H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Production of footwear in the United States has significantly declined over the last 20 years. Footwear manufacturers in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes

As a result, most of the current footwear duties are out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The footwear duty suspension bills being considered would eliminate the duties on several types of footwear, but will not affect the few remaining sensitive footwear categories which are still produced in the United States.

Eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

Conclusion

Thank you for the opportunity to submit comments on the Miscellaneous Trade and Tariff bill. If you have any questions, please contact Lori Denham, RILA's Senior Vice President for Policy and Planning or Jonathan Gold, RILA's Vice President Global Supply Chain Policy.

Sincerely,

Sandra L. Kennedy
President

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its **support** for the following bills:

H.R. 3308—To suspend temporarily the duty on erasers.
H.R. 3309—To suspend temporarily the duty on nail clippers.
H.R. 3310—To suspend temporarily the duty on artificial flowers.
H.R. 3311—To suspend temporarily the duty on electrically operated pencil sharpeners.
H.R. 2477—To suspend, temporarily the duty on bicycle speedometers.
H.R. 2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-angle reflectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.
H.R. 2479—To suspend temporarily the duty on unicycles.
H.R. 2556—To suspend temporarily the duty on air freshener electric devices with warmer units.
H.R. 2557—To suspend temporarily the duty on air freshener electric devices.
H.R. 2817—To suspend temporarily the duty on certain basketballs.
H.R. 2818—To suspend temporarily the duty on certain leather basketballs.
H.R. 2819—To suspend temporarily the duty on certain rubber basketballs.
H.R. 2820—To suspend temporarily the duty on certain volleyballs.
H.R. 2821—To suspend temporarily the duty on certain synthetic basketballs.
H.R. 3033—To (1) provide duty-free treatment for certain educational devices; and (2) extend such treatment through December 31, 2008.
H.R. 3112—To suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
H.R. 3113—To suspend temporarily the duty on certain cups, with or without saucers, of porcelain or china.
H.R. 3114—To suspend temporarily the duty on certain flags.
H.R. 3115—To suspend temporarily the duty on certain clocks.
H.R. 3116—To suspend temporarily the duty on certain glass articles.
H.R. 3117—To suspend temporarily the duty on certain glass articles of lead crystal.
H.R. 3118—To suspend temporarily the duty on certain music boxes.
H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
H.R. 3389—To suspend temporarily the duty on certain footwear for girls.
H.R. 3391—To suspend temporarily the duty on certain athletic footwear.
H.R. 3392—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—To suspend temporarily the duty on certain work footwear.
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H.R. 3395—To suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.

H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman
Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20215

Dear Chairman Shaw:

On behalf of the American Apparel and Footwear Association—the national trade association of the apparel and footwear industries, and their suppliers—I am writing to express strong support for the following bills identified in the subject advisory.

HR 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements.

Comment: AAFA strongly supports this legislation and believes it is long overdue. The Committee for the Implementation of Textile Agreements (CITA) is responsible for far reaching decisions that deeply affect most AAFA members yet its actions are almost always taken behind closed doors with insufficient public scrutiny. This lack of transparency creates a highly unpredictable environment that is often perceived as being unfair. Recently, CITA has published guidelines to introduce some predictability into its deliberations. While we applaud those limited moves as a step in the right direction, we believe they are insufficient to provide the full accountability necessary for an intergovernmental agency which such responsibilities. Moreover, CITA has at times disregarded its own published guidelines as it has implemented China safeguard and short supply procedures. As a result, AAFA supports bringing CITA under the full jurisdiction of the Administrative Procedures Act.

HR 1121—A bill to repeal section 754 of the Tariff Act of 1930.

Comment: AAFA strongly supports the repeal of the Byrd Amendment. The Byrd legislation was enacted outside of the regular legislative process, by committees that do not enjoy primary jurisdiction over trade issues, and with no opportunity for public comment. Moreover, as has been found by the World Trade Organization (WTO), this provision puts the United States out of compliance with its WTO obligations. In fact, the European Union is currently assessing penalties on U.S. produced clothing in retaliation. Other countries have threatened to do the same. AAFA believes repeal of this abominable provision should be made a priority.

HR 1221, HR 3386, HR 3387, HR 3388, HR 3389, HR 3391, HR 3392, HR 3393, HR 3394, HR 3395, HR 3483, HR 3484, HR 3485, HR 3486, HR 3487, HR 3488, HR 3489, HR 3490, HR 3491—Duty suspensions with respect to various footwear

articles. [Note: This does not include HR 3390, which we understand has been withdrawn.]

Comment. AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

HR 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.

Comment: AAFA strongly supports this legislation. Our association supported an earlier version of this legislation in the 108th Congress. This legislation would result in duty reductions for cotton fabrics that are already designated in short supply under various trade preference programs because these fabrics are unavailable in the United States and in the preference countries. Given that finished shirts may enter duty free using these fabrics, we believe it is also appropriate to permit the fabrics themselves to enter duty free. Thus, U.S. domestic manufacturers of shirts will be able to enjoy equal access to those same high quality fabrics that foreign based manufacturers enjoy.

HR 2589/HR 2590—Two bills to extend the temporary suspension of duty on certain filament yarns

Comment. AAFA strongly supports these provisions. AAFA was involved in the development of the original legislation and understand that the conditions that led to successful passage of the original legislation, including the fact that the yarns in question are not produced domestically, continue to exist. Thus, these provisions should be extended.

HR 1230—A bill to extend trade benefits to certain tents imported into the United States.

Comments. AAFA strongly supports this provision. This legislation relates to certain camping tents which are not made in the United States. Moreover, similar but slightly smaller tents, differentiated only by the fact that they are classified as "backpacking" tents, already enjoy duty free treatment. This provision would correct that anomaly.

In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment of such provisions may also facilitate proper findings of short supply for those programs, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

Footwear Distributors and Retailers of America
Washington, DC 20004
September 2, 2005

The Hon. E. Clay Shaw
Chairman
House Ways and Means Subcommittee on Trade
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw,

This letter is being submitted by the Footwear Distributors and Retailers of America (FDRA) and its members in response to the Subcommittee's request for comments on *Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills.*

FDRA's members comprise U.S. footwear distributors and retailers that, together, account for approximately 80 percent of footwear sales at retail in the United States. Also, imports now account for 99 percent of U.S. consumption of footwear. In other words, the U.S. footwear market comprises nearly all imports; any remain-

ing U.S. production competes on basis other than price and is not affected by the elimination of tariffs.

FDRA and its members support the elimination of tariffs on footwear via all vehicles, including through legislation, free trade agreements and the current WTO Doha Round negotiations. FDRA recognizes the Committee's established practice of considering legislation to temporarily suspend duties on products only where annual revenue losses from duty suspensions total approximately $500,000 or less. FDRA understands that revenue losses from duty suspensions under H.R. 3487 are higher, but the amount remains modest and eliminating these tariffs will benefit FDRA and its member companies and in no way affect any domestic production. Therefore, FDRA supports passage of H.R. 1221, H.R. 3386, H.R. 3387, H.R. 3388, H.R. 3389, H.R. 3391, H.R. 3392, H.R. 3393, H.R. 3394, H.R. 3395, H.R. 3483, H.R. 3484, H.R. 3485, H.R. 3486, H.R. 3487, H.R. 3488, H.R. 3489, H.R. 3490 and H.R. 3491.

Peter T. Mangione

Footwear Distributors and Retailers of America

Retailer Members

Bakers Footwear Group
Brown Shoe Company
Clarks Companies
Designer Shoe Warehouse (DSW)
Famous Footwear
FOOTACTIONUSA
Foot Locker, Inc.
Footstar, Inc.
Gap, Inc.
Genesco, Inc.
J.C. Penney Company
Meldisco
Naturalizer Retail
Payless ShoeSource
Sears, Roebuck & Company
Rack Room Shoes
Retail Ventures, Inc.
The Stride Rite Corporation
Value City
Vans, Inc.
Wal-Mart

Distributor Members

ACI
Aerogroup Int., Inc.
ASICS Tiger Corporation
ATSCO Footwear, Inc.
AZALEIA
BBC International
BCNY International Inc.
Bennett Footwear Group
Cels Enterprises
C.O. Lynch
Cole Haan
Converse
Drew Shoe Corporation
Dynasty Footwear
Elan-Polo, Inc.
E.S. Originals
Global Brand Marketing, Inc.
Green Market Services
HYI
H.H. Brown Shoe Company
Inter Pacific Corporation
Jimlar Corporation
K–Swiss, Inc.
Jones Apparel/Nine West
Laird, Ltd
LJO, Inc
Mark Tucker, Inc.
Mephisto USA
Mercury International
Nike, Inc.
Olem Shoe Corporation
Prima Group Traders, Inc.
RANNA, Inc.
Reef
Reebok International
Renaissance Imports
Right Stuff, Inc.
Salland Industries LTD
Sara Lee
SG Footwear, Inc.
Skechers USA, Inc.
Street Cars, Inc.
The Rockport Company
The Topline Corporation
Valley Lane Industries
Wolverine World Wide

EXECUTIVE COMMITTEE

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Jim Issler, H.H. Brown Shoe Company, Vice-chairman
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Debbie Kocks, Wal-Mart Stores, Inc.*
Greg Ribatt, Bennett Footwear Group
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Joey Safedy, E.S. Originals
Laurence Tarica, Jimlar Corporation
Alan Luchette, Jones Apparel/Nine West Group
Robert Cooperstein, Mercury International
William Snowden, Sr., The Topline Corporation
LuAnne Via, Sears, Roebuck and Company
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Cecil McDermott, J.C. Penney
Rick Thornton, The Stride Rite Corporation
Matt Rubel, Payless ShoeSource
Pamela Salkovitz, The Stride Rite Corporation*
Jeff Shepard, Meldisco

EX–OFFICIO

Robert Campbell, BBC International
Irving Wiseman, Mercury International
Joseph Russell, Elan-Polo, Inc., Chairman
*Alternate member

Payless ShoeSouce, Inc.
Topeka, Kansas 66601
September 1, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

We are submitting these comments in response to the Subcommittee=s request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, we wish to express our **support** for the following bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
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H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
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H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Payless ShoeSource, Inc. is the Western Hemisphere's largest family footwear retailer, with over 4,600 stores across the United States, Canada, Central America and the Caribbean. The vast majority of those stores are located in the U.S. The Company employs over 27,000 associates worldwide.

Over the last 20 years, the production of footwear in the United States has dwindled to practically nothing. The footwear manufacturers still in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes.

Most footwear duties are therefore out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The above bills would eliminate the duties on several types of footwear but they have been carefully drafted so as not to affect the few remaining types which are still manufactured in the United States.

Duty-free entry of footwear would benefit the U.S. customer. The movement towards duty-free footwear would also be consistent with the overall direction the

United States has taken in recently negotiated free trade agreements in Latin America.

Negotiations of the DR–CAFTA and the last miscellaneous tariff bill both served to engage the remaining domestic footwear interests in a discussion of exactly which types of shoes are still made in this country. As a result of those negotiations, all but 17 of the 115 shoe classifications codified under the Harmonized Tariff Schedule will be able to enter the U.S. duty-free from the Caribbean Basin countries and the Central American nations which become signatories to the DR–CAFTA.

To the extent any domestic footwear production still requires duty protection, that field has been clearly drawn to include only 17 shoe types. To avoid controversy, those 17 types are unaffected by the above bills.

As the members of the Subcommittee are aware, tariff bills of this nature contain explicit references to 8-digit HTS numbers. The text of the bills, though, describes shoes types which are identifiable at the more specific 10-digit HTS level. Thus, the fiscal impact of these bills is limited to the more narrowly described footwear types and is of a much lower magnitude than might otherwise be suggested by an analysis at the 8-digit level.

In summary, eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months. Also, the bills are designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me or Nicole Bivens Collinson of Sandler, Travis & Rosenberg, P.A., if you have any questions on these provisions or require additional information.

Sincerely,

Michael J. Massey
Senior Vice President
General Counsel and Secretary

Retail Industry Leaders Association
Arlington, Virginia 22209
September 2, 2005

The Honorable E. Clay Shaw
Chairman
House Ways & Means Trade Subcommittee
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Retail Industry Leaders Association (RILA), we welcome the opportunity to submit comments on technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. There are several provisions that RILA strongly supports or opposes in the list of potential bills to be included in the Miscellaneous Trade Bill.

By way of background, RILA is an alliance of the world's most successful and innovative retailer and supplier companies—the leaders of the retail industry. RILA members represent almost $1.4 trillion in sales annually and operate more than 100,000 stores, manufacturing facilities and distribution centers nationwide. Its member retailers and suppliers have facilities in all 50 states, as well as internationally, and employ millions of workers domestically and worldwide. Through RILA, leaders in the critical disciplines of the retail industry work together to improve their businesses and the industry as a whole.

H.R. 1121—A bill to repeal section 754 of the Tariff Act of 1930

RILA strongly supports the inclusion of H.R. 1121 in the Miscellaneous Trade and Tariff bill. Repeal of the "Byrd Amendment" is a top priority for RILA and its members. The Byrd Amendment annually funnels money collected from antidumping and countervailing duty cases directly to companies that file petitions. These payouts create a perverse incentive for companies to file petitions and add an increasing number of product categories to those petitions in hopes of collecting a financial

windfall. In addition, the presence of the Byrd Amendment impedes the settlement of trade cases because of the financial incentive given to the petitioners.

Since enactment of the amendment, the number of antidumping petitions filed on consumer ready products has increased. As a result of the amendment, more than $1 billion has been distributed to domestic petitioners with no strings attached and with no measurable increase to competitiveness. Repeal would not affect the operation of antidumping and countervailing duty laws, but would remove the perverse incentive to file cases and would keep revenue collected in the government treasury to be spent in a more appropriate way. Congress should support "fair-trade" that creates a level playing field for everyone, not just import-sensitive domestic industries.

In January 2003, the World Trade Organization Appellate Body affirmed an earlier ruling that the "Byrd Amendment" was a violation of U.S. WTO obligations. The U.S. should live up to its international obligations. The U.S. is now facing retaliatory tariffs from several countries on a wide range of products for not repealing the Byrd Amendment. In a time when export trade is so important to our economy, unnecessary duties stifle exports and cause widespread layoffs while corporate subsidies do nothing to enhance the competitiveness of domestic industries.

Consumers are the real losers in this process. By encouraging protectionist behavior, the Byrd Amendment drives up prices for American consumer by encouraging trade defense actions that can increase the cost of consumer goods. The taxpayer funds distributed as a result of the law could be better used for other purposes.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture

RILA strongly opposes this bill. Such a labeling provision is unnecessary and adds additional burdens and costs to importers and retailers. Under section 304 of the Tariff Act of 1930, imported home furniture is already required to have a permanent country of origin marking. We do not believe an additional labeling requirement is useful or appropriate.

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Production of footwear in the United States has significantly declined over the last 20 years. Footwear manufacturers in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes

As a result, most of the current footwear duties are out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The footwear duty suspension bills being considered would eliminate the duties on several types of footwear, but will not affect the few remaining sensitive footwear categories which are still produced in the United States.

Eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

Conclusion

Thank you for the opportunity to submit comments on the Miscellaneous Trade and Tariff bill. If you have any questions, please contact Lori Denham, RILA's Senior Vice President for Policy and Planning or Jonathan Gold, RILA's Vice President Global Supply Chain Policy.

Sincerely,

Sandra L. Kennedy
President

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515
The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its support for the following bills:

H.R. 3308—To suspend temporarily the duty on erasers.
H.R. 3309—To suspend temporarily the duty on nail clippers.
H.R. 3310—To suspend temporarily the duty on artificial flowers.
H.R. 3311—To suspend temporarily the duty on electrically operated pencil sharpeners.
H.R. 2477—To suspend, temporarily the duty on bicycle speedometers.
H.R. 2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-angle reflectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.
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H.R. 3491—To suspend temporarily the duty on certain leather footwear.

These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman
Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20215

Dear Chairman Shaw:

On behalf of the American Apparel and Footwear Association—the national trade association of the apparel and footwear industries, and their suppliers—I am writing to express strong support for the following bills identified in the subject advisory.

HR 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure

Act with respect to actions of the Committee for the Implementation of Textile Agreements.

Comment: AAFA strongly supports this legislation and believes it is long overdue. The Committee for the Implementation of Textile Agreements (CITA) is responsible for far reaching decisions that deeply affect most AAFA members yet its actions are almost always taken behind closed doors with insufficient public scrutiny. This lack of transparency creates a highly unpredictable environment that is often perceived as being unfair. Recently, CITA has published guidelines to introduce some predictability into its deliberations. While we applaud those limited moves as a step in the right direction, we believe they are insufficient to provide the full accountability necessary for an intergovernmental agency which such responsibilities. Moreover, CITA has at times disregarded its own published guidelines as it has implemented China safeguard and short supply procedures. As a result, AAFA supports bringing CITA under the full jurisdiction of the Administrative Procedures Act.

HR 1121—A bill to repeal section 754 of the Tariff Act of 1930.

Comment: AAFA strongly supports the repeal of the Byrd Amendment. The Byrd legislation was enacted outside of the regular legislative process, by committees that do not enjoy primary jurisdiction over trade issues, and with no opportunity for public comment. Moreover, as has been found by the World Trade Organization (WTO), this provision puts the United States out of compliance with its WTO obligations. In fact, the European Union is currently assessing penalties on U.S. produced clothing in retaliation. Other countries have threatened to do the same. AAFA believes repeal of this abominable provision should be made a priority.

HR 1221, HR 3386, HR 3387, HR 3388, HR 3389, HR 3391, HR 3392, HR 3393, HR 3394, HR 3395, HR 3483, HR 3484, HR 3485, HR 3486, HR 3487, HR 3488, HR 3489, HR 3490, HR 3491—Duty suspensions with respect to various footwear articles. [Note: This does not include HR 3390, which we understand has been withdrawn.]

Comment. AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

HR 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.

Comment: AAFA strongly supports this legislation. Our association supported an earlier version of this legislation in the 108th Congress. This legislation would result in duty reductions for cotton fabrics that are already designated in short supply under various trade preference programs because these fabrics are unavailable in the United States and in the preference countries. Given that finished shirts may enter duty free using these fabrics, we believe it is also appropriate to permit the fabrics themselves to enter duty free. Thus, U.S. domestic manufacturers of shirts will be able to enjoy equal access to those same high quality fabrics that foreign based manufacturers enjoy.

HR 2589/HR 2590—Two bills to extend the temporary suspension of duty on certain filament yarns

Comment. AAFA strongly supports these provisions. AAFA was involved in the development of the original legislation and understand that the conditions that led to successful passage of the original legislation, including the fact that the yarns in question are not produced domestically, continue to exist. Thus, these provisions should be extended.

HR 1230—A bill to extend trade benefits to certain tents imported into the United States.

Comments. AAFA strongly supports this provision. This legislation relates to certain camping tents which are not made in the United States. Moreover, similar but slightly smaller tents, differentiated only by the fact that they are classified as "backpacking" tents, already enjoy duty free treatment. This provision would correct that anomaly.

In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment of such provisions may also facilitate proper findings of short supply for those programs, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

Footwear Distributors and Retailers of America
Washington, DC 20004
September 2, 2005

The Hon. E. Clay Shaw
Chairman
House Ways and Means Subcommittee on Trade
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw,

This letter is being submitted by the Footwear Distributors and Retailers of America (FDRA) and its members in response to the Subcommittee's request for comments on *Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills.*

FDRA's members comprise U.S. footwear distributors and retailers that, together, account for approximately 80 percent of footwear sales at retail in the United States. Also, imports now account for 99 percent of U.S. consumption of footwear. In other words, the U.S. footwear market comprises nearly all imports; any remaining U.S. production competes on basis other than price and is not affected by the elimination of tariffs.

FDRA and its members support the elimination of tariffs on footwear via all vehicles, including through legislation, free trade agreements and the current WTO Doha Round negotiations. FDRA recognizes the Committee's established practice of considering legislation to temporarily suspend duties on products only where annual revenue losses from duty suspensions total approximately $500,000 or less. FDRA understands that revenue losses from duty suspensions under H.R. 3487 are higher, but the amount remains modest and eliminating these tariffs will benefit FDRA and its member companies and in no way affect any domestic production. Therefore, FDRA supports passage of H.R. 1221, H.R. 3386, H.R. 3387, H.R. 3388, H.R. 3389, H.R. 3391, H.R. 3392, H.R. 3393, H.R. 3394, H.R. 3395, H.R. 3483, H.R. 3484, H.R. 3485, H.R. 3486, H.R. 3487, H.R. 3488, H.R. 3489, H.R. 3490 and H.R. 3491.

Peter T. Mangione

Footwear Distributors and Retailers of America

Retailer Members	**Distributor Members**
Bakers Footwear Group	ACI
Brown Shoe Company	Aerogroup Int., Inc.
Clarks Companies	ASICS Tiger Corporation
Designer Shoe Warehouse (DSW)	ATSCO Footwear, Inc.
Famous Footwear	AZALEIA
FOOTACTIONUSA	BBC International
Foot Locker, Inc.	BCNY International Inc.
Footstar, Inc.	Bennett Footwear Group
Gap, Inc.	Cels Enterprises
Genesco, Inc.	C.O. Lynch
J.C. Penney Company	Cole Haan
Meldisco	Converse
Naturalizer Retail	Drew Shoe Corporation
Payless ShoeSource	Dynasty Footwear
Sears, Roebuck & Company	Elan-Polo, Inc.
Rack Room Shoes	E.S. Originals
Retail Ventures, Inc.	Global Brand Marketing, Inc.
The Stride Rite Corporation	Green Market Services
Value City	HYI
Vans, Inc.	H.H. Brown Shoe Company
Wal-Mart	Inter Pacific Corporation

Jimlar Corporation
K–Swiss, Inc.
Jones Apparel/Nine West
Laird, Ltd
LJO, Inc
Mark Tucker, Inc.
Mephisto USA
Mercury International
Nike, Inc.
Olem Shoe Corporation
Prima Group Traders, Inc.
RANNA, Inc.
Reef
Reebok International
Renaissance Imports
Right Stuff, Inc.
Salland Industries LTD
Sara Lee
SG Footwear, Inc.
Skechers USA, Inc.
Street Cars, Inc.
The Rockport Company
The Topline Corporation
Valley Lane Industries
Wolverine World Wide

EXECUTIVE COMMITTEE

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Debbie Kocks, Wal-Mart Stores, Inc.*
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Alan Luchette, Jones Apparel/Nine West Group
Robert Cooperstein, Mercury International
William Snowden, Sr., The Topline Corporation
LuAnne Via, Sears, Roebuck and Company
Steve Duffy, Wolverine World Wide
Cecil McDermott, J.C. Penney
Rick Thornton, The Stride Rite Corporation
Matt Rubel, Payless ShoeSource
Pamela Salkovitz, The Stride Rite Corporation*
Jeff Shepard, Meldisco

EX–OFFICIO

Robert Campbell, BBC International
Irving Wiseman, Mercury International
Joseph Russell, Elan-Polo, Inc., Chairman
*Alternate member

Payless ShoeSouce, Inc.
Topeka, Kansas 66601
September 1, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

We are submitting these comments in response to the Subcommittee=s request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, we wish to express our **support** for the following bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
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H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Payless ShoeSource, Inc. is the Western Hemisphere's largest family footwear retailer, with over 4,600 stores across the United States, Canada, Central America and the Caribbean. The vast majority of those stores are located in the U.S. The Company employs over 27,000 associates worldwide.

Over the last 20 years, the production of footwear in the United States has dwindled to practically nothing. The footwear manufacturers still in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes.

Most footwear duties are therefore out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The above bills would eliminate the duties on several types of footwear but they have been carefully drafted so as not to affect the few remaining types which are still manufactured in the United States.

Duty-free entry of footwear would benefit the U.S. customer. The movement towards duty-free footwear would also be consistent with the overall direction the United States has taken in recently negotiated free trade agreements in Latin America.

Negotiations of the DR–CAFTA and the last miscellaneous tariff bill both served to engage the remaining domestic footwear interests in a discussion of exactly which types of shoes are still made in this country. As a result of those negotiations, all but 17 of the 115 shoe classifications codified under the Harmonized Tariff Schedule will be able to enter the U.S. duty-free from the Caribbean Basin countries and the Central American nations which become signatories to the DR–CAFTA.

To the extent any domestic footwear production still requires duty protection, that field has been clearly drawn to include only 17 shoe types. To avoid controversy, those 17 types are unaffected by the above bills.

As the members of the Subcommittee are aware, tariff bills of this nature contain explicit references to 8-digit HTS numbers. The text of the bills, though, describes shoes types which are identifiable at the more specific 10-digit HTS level. Thus, the fiscal impact of these bills is limited to the more narrowly described footwear types and is of a much lower magnitude than might otherwise be suggested by an analysis at the 8-digit level.

In summary, eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months. Also, the bills are designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me or Nicole Bivens Collinson of Sandler, Travis & Rosenberg, P.A., if you have any questions on these provisions or require additional information.

Sincerely,

Michael J. Massey
Senior Vice President
General Counsel and Secretary

Retail Industry Leaders Association
Arlington, Virginia 22209
September 2, 2005

The Honorable E. Clay Shaw
Chairman
House Ways & Means Trade Subcommittee
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Retail Industry Leaders Association (RILA), we welcome the opportunity to submit comments on technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. There are several provisions that RILA strongly supports or opposes in the list of potential bills to be included in the Miscellaneous Trade Bill.

By way of background, RILA is an alliance of the world's most successful and innovative retailer and supplier companies—the leaders of the retail industry. RILA members represent almost $1.4 trillion in sales annually and operate more than 100,000 stores, manufacturing facilities and distribution centers nationwide. Its member retailers and suppliers have facilities in all 50 states, as well as internationally, and employ millions of workers domestically and worldwide. Through RILA, leaders in the critical disciplines of the retail industry work together to improve their businesses and the industry as a whole.

H.R. 1121—A bill to repeal section 754 of the Tariff Act of 1930

RILA strongly supports the inclusion of H.R. 1121 in the Miscellaneous Trade and Tariff bill. Repeal of the "Byrd Amendment" is a top priority for RILA and its members. The Byrd Amendment annually funnels money collected from antidumping and countervailing duty cases directly to companies that file petitions. These payouts create a perverse incentive for companies to file petitions and add an increasing number of product categories to those petitions in hopes of collecting a financial windfall. In addition, the presence of the Byrd Amendment impedes the settlement of trade cases because of the financial incentive given to the petitioners.

Since enactment of the amendment, the number of antidumping petitions filed on consumer ready products has increased. As a result of the amendment, more than $1 billion has been distributed to domestic petitioners with no strings attached and with no measurable increase to competitiveness. Repeal would not affect the operation of antidumping and countervailing duty laws, but would remove the perverse incentive to file cases and would keep revenue collected in the government treasury to be spent in a more appropriate way. Congress should support "fair-trade" that creates a level playing field for everyone, not just import-sensitive domestic industries.

In January 2003, the World Trade Organization Appellate Body affirmed an earlier ruling that the "Byrd Amendment" was a violation of U.S. WTO obligations. The U.S. should live up to its international obligations. The U.S. is now facing retaliatory tariffs from several countries on a wide range of products for not repealing the Byrd Amendment. In a time when export trade is so important to our economy, unnecessary duties stifle exports and cause widespread layoffs while corporate subsidies do nothing to enhance the competitiveness of domestic industries.

Consumers are the real losers in this process. By encouraging protectionist behavior, the Byrd Amendment drives up prices for American consumer by encouraging trade defense actions that can increase the cost of consumer goods. The taxpayer funds distributed as a result of the law could be better used for other purposes.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture

RILA strongly opposes this bill. Such a labeling provision is unnecessary and adds additional burdens and costs to importers and retailers. Under section 304 of the Tariff Act of 1930, imported home furniture is already required to have a permanent country of origin marking. We do not believe an additional labeling requirement is useful or appropriate.

Duty Suspension Bills

RILA supports the following duty suspension bills:

H.R. 3308—A bill to suspend temporarily the duty on erasers.
H.R. 3309—A bill to suspend temporarily the duty on nail clippers.
H.R. 3310—A bill to suspend temporarily the duty on artificial flowers.
H.R. 3311—A bill to suspend temporarily the duty on electric pencil sharpeners.

We believe that these products are not made in the United States in commercial quantities sufficient to satisfy RILA members and their customers. As well, the duty on these products averages less than 5%.

RILA also supports the following footwear duty suspension bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3388—A bill to suspend temporarily the duty on certain women's footwear.
H.R. 3389—A bill to suspend temporarily the duty on certain footwear for girls.
H.R. 3390—A bill to suspend temporarily the duty on certain protective footwear.
H.R. 3391—A bill to suspend temporarily the duty on certain athletic footwear.
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Production of footwear in the United States has significantly declined over the last 20 years. Footwear manufacturers in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes

As a result, most of the current footwear duties are out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The footwear duty suspension bills being considered would eliminate the duties on several types of footwear, but will not affect the few remaining sensitive footwear categories which are still produced in the United States.

Eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

Conclusion

Thank you for the opportunity to submit comments on the Miscellaneous Trade and Tariff bill. If you have any questions, please contact Lori Denham, RILA's Senior Vice President for Policy and Planning or Jonathan Gold, RILA's Vice President Global Supply Chain Policy.

Sincerely,

Sandra L. Kennedy
President

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

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H.R. 2557—To suspend temporarily the duty on air freshener electric devices.
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These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

Meade Instruments Corporation
Washington, DC 20037
August 31, 2005

The Honorable E. Clay Shaw, Jr.
Chairman
Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Shaw:

I am writing on behalf of Meade Instruments Corporation, a respected Irvine technology company that employs approximately 300 Californians in manufacturing, marketing, and distribution. On Meade's behalf, we write in support of H.R. 3414, a duty suspension bill that would extend the tariff exemption for certain toy telescopes that was passed into law in section 1221 of H.R. 1047, "the Miscellaneous Trade and Technical Corrections Act of 2004".

Before last year's law, all telescopes[1] were subject to an 8% tariff, regardless of whether they are complex instruments costing tens of thousands of dollars, or toys retailing for less than one hundred dollars. Although "toys" are exempt from tariffs, toy telescopes were not.[2] This is not merely illogical but also unfair: unfair to telescope sellers whose products compete against other toys that are duty-free, and unfair to the young consumers of these telescopes. Moreover, these tariffs did not protect any domestic United States industry.

The continued duty waiver would keep children's telescopes on a level playing field with other "toys." The tariff exemption covers the small refracting and reflecting telescopes that are marketed and sold cheaply to children.[3] Meade would like Congress to continue the tariff break-out and duty suspension for refracting telescopes with 50mm (or smaller) lenses and reflecting telescopes with 76mm (or smaller) lenses. These telescopes typically retail for $30 to $80 each.

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[1] Telescopes are classified within the U.S. tariff system and by U.S. Customs and Border Protection ("CBP") rulings as HTS 9005.80.4040, except for the telescopes in HTS 9902.02.13, for which the duties are now suspended, pursuant to the 2004 law.

[2] The only telescope CBP classifies as a toy is a 4-inch plastic "Peter Pan spyglass/telescope" with a figure of Captain Hook molded into the handle, which was given away in children's meals by a fast-food hamburger chain. Although this is a toy, it is barely a telescope, and certainly not the only type of telescope used by children at play.

[3] Telescopes work by collecting light to create a sharp image, and then magnifying that image into an eyepiece. In a refracting telescope, an objective lens collects the light. In a reflecting telescope, a concave mirror collects and focuses the light. Note that catadioptric telescopes (or mirror-lens telescopes) employ a combination of both mirrors and lenses, but catadioptric telescopes do not deserve protection under a "toy" exemption.

The remainder of this letter briefly explains how (1) these telescopes are effectively toys; (2) a waiver does not threaten any domestic interests; and (3) a waiver will be revenue neutral.

Telescopes of these types are effectively toys, and thus should be exempted from tariff

Refracting telescopes with 50mm lenses, and reflecting telescopes with 76mm lenses, are not designed for scientific or professional use. They are less powerful than such adult telescopes because they are manufactured for the amusement of children. Rather than allowing a professional study of the sky, these simple telescopes permit children to gaze at the sky and imitate serious astronomers. They are also marketed and retailed as toys. The packaging material for the "Meade Jupiter" telescope, for example, reads: "Recommended for ages 8 and up. Adult supervision recommended." Telescopes of this size and power (whether imported and sold by Meade or one of its competitors) are sold almost exclusively in toy stores such as Toys R Us, or as toys in general retail stores such as Wal-Mart.

This tariff exemption would not threaten any domestic industries

Meade Instruments Corporation and Bushnell/Tasco are the two major domestic toy telescope sellers.[4] The toys sold by these companies involve low-end manufacturing, and thus cannot be cost-effectively manufactured in the United States. Both companies import their toy telescopes. Meade is unaware of any domestic manufacturer, and is moreover unaware of any company that would find it profitable to manufacture such telescopes in the United States. There was no controversy or opposition to the duty suspension on telescopes in the past bill and there is none of which we are aware now.

A tariff exemption for these telescopes will be revenue neutral

According to CBO guidelines, a tariff exemption is considered revenue neutral if the total budget impact will be less than $500,000. Meade's competitor in this industry is privately held, and thus does not publish sales figures. Nonetheless, Meade's knowledge of the market and familiarity with its competitor makes us quite confident that the revenue impact will be under that figure.

Meade's industry information is that domestic retailers currently import roughly 450,000 refracting telescopes of 50mm or less. The average import value is $12, meaning that the foregone tariffs would be roughly $430,000.

Reflecting telescopes of 76mm or less add an insignificant amount to the total. Domestic retailers import roughly 25,000 units. The average import value is $20, meaning that the foregone tariffs from refracting telescopes will be only an additional $40,000.

Thus, the total revenue impact of our proposed duty waiver would be roughly $470,000.

Conclusion

Meade Instruments Corporation respectfully requests that Congress pass a duty suspension bill extending the duty suspension on toy telescopes for the following reasons:

- The 8% duty adversely affects the U.S. companies that import toy telescopes, without benefiting any domestic manufacturers
- These companies create jobs and growth in California, as well as elsewhere in the country
- The duty makes it more difficult for children to choose toy telescopes vs. other toys
- These telescopes are substantially different in construction, use and ability from other telescopes
- There is no opposition to, or controversy with, this duty-suspension request
- The revenue loss to the U.S. government would be de minimis

Best Regards,

Peggy Clarke

[4] Meade Instruments Corporation also produces high-end telescopes, microscopes, binoculars, and telescope software and accessories in the United States. In some of these lines of business, competitors include toy and scientific related companies, as well as certain "camera" companies such as Canon, Minolta, Nikon, and Olympus. In toy telescopes, however, the two major United States companies are Meade and Bushnell/Tasco, the latter of which is privately held.

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman
Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20215

Dear Chairman Shaw:

On behalf of the American Apparel and Footwear Association—the national trade association of the apparel and footwear industries, and their suppliers—I am writing to express strong support for the following bills identified in the subject advisory.

HR 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements.

Comment: AAFA strongly supports this legislation and believes it is long overdue. The Committee for the Implementation of Textile Agreements (CITA) is responsible for far reaching decisions that deeply affect most AAFA members yet its actions are almost always taken behind closed doors with insufficient public scrutiny. This lack of transparency creates a highly unpredictable environment that is often perceived as being unfair. Recently, CITA has published guidelines to introduce some predictability into its deliberations. While we applaud those limited moves as a step in the right direction, we believe they are insufficient to provide the full accountability necessary for an intergovernmental agency which such responsibilities. Moreover, CITA has at times disregarded its own published guidelines as it has implemented China safeguard and short supply procedures. As a result, AAFA supports bringing CITA under the full jurisdiction of the Administrative Procedures Act.

HR 1121—A bill to repeal section 754 of the Tariff Act of 1930.

Comment: AAFA strongly supports the repeal of the Byrd Amendment. The Byrd legislation was enacted outside of the regular legislative process, by committees that do not enjoy primary jurisdiction over trade issues, and with no opportunity for public comment. Moreover, as has been found by the World Trade Organization (WTO), this provision puts the United States out of compliance with its WTO obligations. In fact, the European Union is currently assessing penalties on U.S. produced clothing in retaliation. Other countries have threatened to do the same. AAFA believes repeal of this abominable provision should be made a priority.

HR 1221, HR 3386, HR 3387, HR 3388, HR 3389, HR 3391, HR 3392, HR 3393, HR 3394, HR 3395, HR 3483, HR 3484, HR 3485, HR 3486, HR 3487, HR 3488, HR 3489, HR 3490, HR 3491—Duty suspensions with respect to various footwear articles. [Note: This does not include HR 3390, which we understand has been withdrawn.]

Comment. AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

HR 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.

Comment: AAFA strongly supports this legislation. Our association supported an earlier version of this legislation in the 108th Congress. This legislation would result in duty reductions for cotton fabrics that are already designated in short supply under various trade preference programs because these fabrics are unavailable in the United States and in the preference countries. Given that finished shirts may enter duty free using these fabrics, we believe it is also appropriate to permit the fabrics themselves to enter duty free. Thus, U.S. domestic manufacturers of shirts will be able to enjoy equal access to those same high quality fabrics that foreign based manufacturers enjoy.

HR 2589/HR 2590—Two bills to extend the temporary suspension of duty on certain filament yarns

Comment. AAFA strongly supports these provisions. AAFA was involved in the development of the original legislation and understand that the conditions that led to successful passage of the original legislation, including the fact that the yarns in question are not produced domestically, continue to exist. Thus, these provisions should be extended.

HR 1230—A bill to extend trade benefits to certain tents imported into the United States.

Comments. AAFA strongly supports this provision. This legislation relates to certain camping tents which are not made in the United States. Moreover, similar but slightly smaller tents, differentiated only by the fact that they are classified as "backpacking" tents, already enjoy duty free treatment. This provision would correct that anomaly.

In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment of such provisions may also facilitate proper findings of short supply for those programs, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

Statement of Erik O. Autor, National Retail Federation

The National Retail Federation (NRF) submits this statement to the Ways and Means Trade Subcommittee to express the U.S. retail industry's strong support for H.R. 3416, which is under consideration for inclusion in a miscellaneous trade bill. NRF is the world's largest retail trade association with membership that comprises all retail formats and channels of distribution including department, specialty, discount, catalog, Internet and independent stores as well as the industry's key trading partners of retail goods and services. NRF represents an industry with more than 1.5 million U.S. retail establishments, more than 23 million employees—about one in five American workers—and 2004 sales of $4.1 trillion. As the industry umbrella group, NRF also represents more than 100 state, national and international retail associations.

H.R. 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements.

NRF and the U.S. retail industry also strongly support H.R. 3416 and its inclusion in a miscellaneous trade bill. As long ago as September 1996, the U.S. General Accounting Office (GAO), as it was then called, issued a report evaluating the Committee for the Implementation of Textile Agreements (CITA),[1] the multi-agency government entity responsible for administering of the system of textile an apparel quotas. That report triggered calls by Members of Congress, including Members of the Ways and Means Committee, for "broad reform of the *covert* procedures of the CITA bureaucracy—The GAO report describes a hidden and erratic process at CITA which results in indefensible decisions to impose import quotas."[2]

Nothing has changed in the last nine years with respect to how CITA operates. CITA continues to have a huge negative impact on American consumers, particularly low-income American families, and operates behind closed doors. Claiming coverage under the "foreign affairs" exemption from the Administrative Procedures Act, CITA makes decisions to impose quotas on imports from China and other countries (most notably, Vietnam), out of public view and with no accountability and little opportunity for meaningful public comment.

In addition, CITA's traditional role changed radically in 2002, when the President designated it as the government entity responsible for administering the China textile safeguards mechanism, ostensibly a quasi-judicial administrative remedy. Under the textile safeguards procedures, however, retailers and other interested parties

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[1] United States General Accounting Office, Textile Trade: Operations of the Committee for the Implementation of Textile Agreements, September 1996, GAO/NSIAD–96–186.

[2] House Ways and Means Committee Chairman Bill Archer, quoted in "Congressional Legislators Urge Reform of Textile Trade Committee," *Daily Executives Report*, Bureau of National Affairs, October 7, 1996, p. A–4 (emphasis added).

that have opposed safeguards quotas have no opportunity to comment on whether a petition even meets the basic requirements for initiation of a safeguards investigation. CITA accepts only written comments after it has accepted a petition (which it almost always does), and holds no hearings as does the U.S. International Trade Commission that administers other types of safeguards remedies. Finally, CITA written decisions do not respond to and, for the most part, ignore points raised in opposition, and fail to meet even the most basic standards applicable to other agencies. Particularly with its expanded role in administering the China textile safeguard mechanism, it is simply unacceptable for CITA to continue to operate essentially as a "star chamber," unaccountable under even the most basic standards and protections afforded under U.S. administrative law.

In a day and age when the United States demands that our trading partners adhere to open and transparent regulatory procedures, it is astounding that an arm of the United States government is allowed to continue to operate in secret and free from any judicial oversight or accountability. No U.S. government agency that does not deal with national security matters and that has such a major financial impact on both U.S. companies and consumers should be shielded in this manner from public scrutiny and remain essentially immune from judicial review.

H.R. 3416 would simply open CITA up to public view and judicial scrutiny. It is a very modest bill in that it makes no further changes in the ways in which CITA operates. It will not restrict or retard in any way CITA's ability to respond to charges that increased imports are causing or threatening to cause market disruption. It merely ensures that the process of responding to those charges is clear and open, and that CITA decisions are based on substantial evidence on a record gathered during an investigation, and are not made in a manner that is arbitrary or capricious. As civil society groups frequently remind us, transparency is a good thing. Thus, H.R. 3416 should be completely non-controversial and is certainly long overdue. NRF strongly encourages its inclusion in the next miscellaneous tariff bill and its ultimate passage by Congress.

NRF appreciates the opportunity to offer these comments H.R. 3146. We strongly support and urge the inclusion of H.R. 3146 in any miscellaneous trade legislation.

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman
Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20215

Dear Chairman Shaw:

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Comment. AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

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In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment of such provisions may also facilitate proper findings of short supply for those programs, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

Footwear Distributors and Retailers of America
Washington, DC 20004
September 2, 2005

The Hon. E. Clay Shaw
Chairman
House Ways and Means Subcommittee on Trade
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw,

This letter is being submitted by the Footwear Distributors and Retailers of America (FDRA) and its members in response to the Subcommittee's request for comments on Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills.

FDRA's members comprise U.S. footwear distributors and retailers that, together, account for approximately 80 percent of footwear sales at retail in the United States. Also, imports now account for 99 percent of U.S. consumption of footwear. In other words, the U.S. footwear market comprises nearly all imports; any remaining U.S. production competes on basis other than price and is not affected by the elimination of tariffs.

FDRA and its members support the elimination of tariffs on footwear via all vehicles, including through legislation, free trade agreements and the current WTO Doha Round negotiations. FDRA recognizes the Committee's established practice of considering legislation to temporarily suspend duties on products only where annual revenue losses from duty suspensions total approximately $500,000 or less. FDRA understands that revenue losses from duty suspensions under H.R. 3487 are higher, but the amount remains modest and eliminating these tariffs will benefit FDRA and its member companies and in no way affect any domestic production. Therefore, FDRA supports passage of H.R. 1221, H.R. 3386, H.R. 3387, H.R. 3388, H.R. 3389, H.R. 3391, H.R. 3392, H.R. 3393, H.R. 3394, H.R. 3395, H.R. 3483, H.R. 3484, H.R. 3485, H.R. 3486, H.R. 3487, H.R. 3488, H.R. 3489, H.R. 3490 and H.R. 3491.

Peter T. Mangione

Footwear Distributors and Retailers of America

Retailer Members

Bakers Footwear Group
Brown Shoe Company
Clarks Companies
Designer Shoe Warehouse (DSW)
Famous Footwear
FOOTACTIONUSA
Foot Locker, Inc.
Footstar, Inc.
Gap, Inc.
Genesco, Inc.
J.C. Penney Company
Meldisco
Naturalizer Retail
Payless ShoeSource
Sears, Roebuck & Company
Rack Room Shoes
Retail Ventures, Inc.
The Stride Rite Corporation
Value City
Vans, Inc.
Wal-Mart

Distributor Members

ACI
Aerogroup Int., Inc.
ASICS Tiger Corporation
ATSCO Footwear, Inc.
AZALEIA
BBC International
BCNY International Inc.
Bennett Footwear Group
Cels Enterprises
C.O. Lynch
Cole Haan
Converse
Drew Shoe Corporation
Dynasty Footwear
Elan-Polo, Inc.
E.S. Originals
Global Brand Marketing, Inc.
Green Market Services
HYI
H.H. Brown Shoe Company
Inter Pacific Corporation
Jimlar Corporation
K–Swiss, Inc.
Jones Apparel/Nine West
Laird, Ltd
LJO, Inc
Mark Tucker, Inc.
Mephisto USA
Mercury International
Nike, Inc.
Olem Shoe Corporation
Prima Group Traders, Inc.
RANNA, Inc.
Reef
Reebok International
Renaissance Imports

Right Stuff, Inc.
Salland Industries LTD
Sara Lee
SG Footwear, Inc.
Skechers USA, Inc.
Street Cars, Inc.
The Rockport Company
The Topline Corporation
Valley Lane Industries
Wolverine World Wide

EXECUTIVE COMMITTEE

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Joey Safedy, E.S. Originals
Laurence Tarica, Jimlar Corporation
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Cecil McDermott, J.C. Penney
Rick Thornton, The Stride Rite Corporation
Matt Rubel, Payless ShoeSource
Pamela Salkovitz, The Stride Rite Corporation*
Jeff Shepard, Meldisco

EX–OFFICIO

Robert Campbell, BBC International
Irving Wiseman, Mercury International
Joseph Russell, Elan-Polo, Inc., Chairman
*Alternate member

Payless ShoeSouce, Inc.
Topeka, Kansas 66601
September 1, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

We are submitting these comments in response to the Subcommittee=s request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, we wish to express our **support** for the following bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
H.R. 3389—To suspend temporarily the duty on certain footwear for girls.
H.R. 3391—To suspend temporarily the duty on certain athletic footwear.
H.R. 3392—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—To suspend temporarily the duty on certain work footwear.
H.R. 3394—To suspend temporarily the duty on certain work footwear.
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H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.

H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Payless ShoeSource, Inc. is the Western Hemisphere's largest family footwear retailer, with over 4,600 stores across the United States, Canada, Central America and the Caribbean. The vast majority of those stores are located in the U.S. The Company employs over 27,000 associates worldwide.

Over the last 20 years, the production of footwear in the United States has dwindled to practically nothing. The footwear manufacturers still in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes.

Most footwear duties are therefore out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The above bills would eliminate the duties on several types of footwear but they have been carefully drafted so as not to affect the few remaining types which are still manufactured in the United States.

Duty-free entry of footwear would benefit the U.S. customer. The movement towards duty-free footwear would also be consistent with the overall direction the United States has taken in recently negotiated free trade agreements in Latin America.

Negotiations of the DR–CAFTA and the last miscellaneous tariff bill both served to engage the remaining domestic footwear interests in a discussion of exactly which types of shoes are still made in this country. As a result of those negotiations, all but 17 of the 115 shoe classifications codified under the Harmonized Tariff Schedule will be able to enter the U.S. duty-free from the Caribbean Basin countries and the Central American nations which become signatories to the DR–CAFTA.

To the extent any domestic footwear production still requires duty protection, that field has been clearly drawn to include only 17 shoe types. To avoid controversy, those 17 types are unaffected by the above bills.

As the members of the Subcommittee are aware, tariff bills of this nature contain explicit references to 8-digit HTS numbers. The text of the bills, though, describes shoes types which are identifiable at the more specific 10-digit HTS level. Thus, the fiscal impact of these bills is limited to the more narrowly described footwear types and is of a much lower magnitude than might otherwise be suggested by an analysis at the 8-digit level.

In summary, eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months. Also, the bills are designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me or Nicole Bivens Collinson of Sandler, Travis & Rosenberg, P.A., if you have any questions on these provisions or require additional information.

Sincerely,

Michael J. Massey
Senior Vice President
General Counsel and Secretary

Retail Industry Leaders Association
Arlington, Virginia 22209
September 2, 2005

The Honorable E. Clay Shaw
Chairman
House Ways & Means Trade Subcommittee
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Retail Industry Leaders Association (RILA), we welcome the opportunity to submit comments on technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. There are several provisions that RILA

strongly supports or opposes in the list of potential bills to be included in the Miscellaneous Trade Bill.

By way of background, RILA is an alliance of the world's most successful and innovative retailer and supplier companies—the leaders of the retail industry. RILA members represent almost $1.4 trillion in sales annually and operate more than 100,000 stores, manufacturing facilities and distribution centers nationwide. Its member retailers and suppliers have facilities in all 50 states, as well as internationally, and employ millions of workers domestically and worldwide. Through RILA, leaders in the critical disciplines of the retail industry work together to improve their businesses and the industry as a whole.

H.R. 1121—A bill to repeal section 754 of the Tariff Act of 1930

RILA strongly supports the inclusion of H.R. 1121 in the Miscellaneous Trade and Tariff bill. Repeal of the "Byrd Amendment" is a top priority for RILA and its members. The Byrd Amendment annually funnels money collected from antidumping and countervailing duty cases directly to companies that file petitions. These payouts create a perverse incentive for companies to file petitions and add an increasing number of product categories to those petitions in hopes of collecting a financial windfall. In addition, the presence of the Byrd Amendment impedes the settlement of trade cases because of the financial incentive given to the petitioners.

Since enactment of the amendment, the number of antidumping petitions filed on consumer ready products has increased. As a result of the amendment, more than $1 billion has been distributed to domestic petitioners with no strings attached and with no measurable increase to competitiveness. Repeal would not affect the operation of antidumping and countervailing duty laws, but would remove the perverse incentive to file cases and would keep revenue collected in the government treasury to be spent in a more appropriate way. Congress should support "fair-trade" that creates a level playing field for everyone, not just import-sensitive domestic industries.

In January 2003, the World Trade Organization Appellate Body affirmed an earlier ruling that the "Byrd Amendment" was a violation of U.S. WTO obligations. The U.S. should live up to its international obligations. The U.S. is now facing retaliatory tariffs from several countries on a wide range of products for not repealing the Byrd Amendment. In a time when export trade is so important to our economy, unnecessary duties stifle exports and cause widespread layoffs while corporate subsidies do nothing to enhance the competitiveness of domestic industries.

Consumers are the real losers in this process. By encouraging protectionist behavior, the Byrd Amendment drives up prices for American consumer by encouraging trade defense actions that can increase the cost of consumer goods. The taxpayer funds distributed as a result of the law could be better used for other purposes.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture

RILA strongly opposes this bill. Such a labeling provision is unnecessary and adds additional burdens and costs to importers and retailers. Under section 304 of the Tariff Act of 1930, imported home furniture is already required to have a permanent country of origin marking. We do not believe an additional labeling requirement is useful or appropriate.

Duty Suspension Bills

RILA supports the following duty suspension bills:

H.R. 3308—A bill to suspend temporarily the duty on erasers.

H.R. 3309—A bill to suspend temporarily the duty on nail clippers.

H.R. 3310—A bill to suspend temporarily the duty on artificial flowers.

H.R. 3311—A bill to suspend temporarily the duty on electric pencil sharpeners.

We believe that these products are not made in the United States in commercial quantities sufficient to satisfy RILA members and their customers. As well, the duty on these products averages less than 5%.

RILA also supports the following footwear duty suspension bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.

H.R. 3386—A bill to suspend temporarily the duty on certain footwear with open toes or heels.

H.R. 3387—A bill to suspend temporarily the duty on certain work footwear.

H.R. 3388—A bill to suspend temporarily the duty on certain women's footwear.

H.R. 3389—A bill to suspend temporarily the duty on certain footwear for girls.

H.R. 3390—A bill to suspend temporarily the duty on certain protective footwear.

H.R. 3391—A bill to suspend temporarily the duty on certain athletic footwear.

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H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Production of footwear in the United States has significantly declined over the last 20 years. Footwear manufacturers in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes

As a result, most of the current footwear duties are out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The footwear duty suspension bills being considered would eliminate the duties on several types of footwear, but will not affect the few remaining sensitive footwear categories which are still produced in the United States.

Eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

Conclusion

Thank you for the opportunity to submit comments on the Miscellaneous Trade and Tariff bill. If you have any questions, please contact Lori Denham, RILA's Senior Vice President for Policy and Planning or Jonathan Gold, RILA's Vice President Global Supply Chain Policy.

Sincerely,

Sandra L. Kennedy
President

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its support for the following bills:

H.R. 3308—To suspend temporarily the duty on erasers.
H.R. 3309—To suspend temporarily the duty on nail clippers.
H.R. 3310—To suspend temporarily the duty on artificial flowers.
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H.R. 2477—To suspend, temporarily the duty on bicycle speedometers.

H.R. 2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-angle reflectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.
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H.R. 2557—To suspend temporarily the duty on air freshener electric devices.
H.R. 2817—To suspend temporarily the duty on certain basketballs.
H.R. 2818—To suspend temporarily the duty on certain leather basketballs.
H.R. 2819—To suspend temporarily the duty on certain rubber basketballs.
H.R. 2820—To suspend temporarily the duty on certain volleyballs.
H.R. 2821—To suspend temporarily the duty on certain synthetic basketballs.
H.R. 3033—To (1) provide duty-free treatment for certain educational devices; and (2) extend such treatment through December 31, 2008.
H.R. 3112—To suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
H.R. 3113—To suspend temporarily the duty on certain cups, with or without saucers, of porcelain or china.
H.R. 3114—To suspend temporarily the duty on certain flags.
H.R. 3115—To suspend temporarily the duty on certain clocks.
H.R. 3116—To suspend temporarily the duty on certain glass articles.
H.R. 3117—To suspend temporarily the duty on certain glass articles of lead crystal.
H.R. 3118—To suspend temporarily the duty on certain music boxes.
H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
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H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
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H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman
Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20215

Dear Chairman Shaw:

On behalf of the American Apparel and Footwear Association—the national trade association of the apparel and footwear industries, and their suppliers—I am writing to express strong support for the following bills identified in the subject advisory.

HR 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements.

Comment: AAFA strongly supports this legislation and believes it is long overdue. The Committee for the Implementation of Textile Agreements (CITA) is responsible for far reaching decisions that deeply affect most AAFA members yet its actions are almost always taken behind closed doors with insufficient public scrutiny. This lack of transparency creates a highly unpredictable environment that is often perceived as being unfair. Recently, CITA has published guidelines to introduce some predictability into its deliberations. While we applaud those limited moves as a step in the right direction, we believe they are insufficient to provide the full accountability necessary for an intergovernmental agency which such responsibilities. Moreover, CITA has at times disregarded its own published guidelines as it has implemented China safeguard and short supply procedures. As a result, AAFA supports bringing CITA under the full jurisdiction of the Administrative Procedures Act.

HR 1121—A bill to repeal section 754 of the Tariff Act of 1930.

Comment: AAFA strongly supports the repeal of the Byrd Amendment. The Byrd legislation was enacted outside of the regular legislative process, by committees that do not enjoy primary jurisdiction over trade issues, and with no opportunity for public comment. Moreover, as has been found by the World Trade Organization (WTO), this provision puts the United States out of compliance with its WTO obligations. In fact, the European Union is currently assessing penalties on U.S. produced clothing in retaliation. Other countries have threatened to do the same. AAFA believes repeal of this abominable provision should be made a priority.

HR 1221, HR 3386, HR 3387, HR 3388, HR 3389, HR 3391, HR 3392, HR 3393, HR 3394, HR 3395, HR 3483, HR 3484, HR 3485, HR 3486, HR 3487, HR 3488, HR 3489, HR 3490, HR 3491—Duty suspensions with respect to various footwear articles. [Note: This does not include HR 3390, which we understand has been withdrawn.]

Comment. AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

HR 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.

Comment: AAFA strongly supports this legislation. Our association supported an earlier version of this legislation in the 108th Congress. This legislation would result in duty reductions for cotton fabrics that are already designated in short supply under various trade preference programs because these fabrics are unavailable in the United States and in the preference countries. Given that finished shirts may enter duty free using these fabrics, we believe it is also appropriate to permit the fabrics themselves to enter duty free. Thus, U.S. domestic manufacturers of shirts will be able to enjoy equal access to those same high quality fabrics that foreign based manufacturers enjoy.

HR 2589/HR 2590—Two bills to extend the temporary suspension of duty on certain filament yarns

Comment. AAFA strongly supports these provisions. AAFA was involved in the development of the original legislation and understand that the conditions that led to successful passage of the original legislation, including the fact that the yarns in question are not produced domestically, continue to exist. Thus, these provisions should be extended.

HR 1230—A bill to extend trade benefits to certain tents imported into the United States.

Comments. AAFA strongly supports this provision. This legislation relates to certain camping tents which are not made in the United States. Moreover, similar but slightly smaller tents, differentiated only by the fact that they are classified as "backpacking" tents, already enjoy duty free treatment. This provision would correct that anomaly.

In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment of such provisions may also facilitate proper findings of short supply for those programs, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

Footwear Distributors and Retailers of America
Washington, DC 20004
September 2, 2005

The Hon. E. Clay Shaw
Chairman
House Ways and Means Subcommittee on Trade
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw,

This letter is being submitted by the Footwear Distributors and Retailers of America (FDRA) and its members in response to the Subcommittee's request for comments on *Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills.*

FDRA's members comprise U.S. footwear distributors and retailers that, together, account for approximately 80 percent of footwear sales at retail in the United States. Also, imports now account for 99 percent of U.S. consumption of footwear. In other words, the U.S. footwear market comprises nearly all imports; any remaining U.S. production competes on basis other than price and is not affected by the elimination of tariffs.

FDRA and its members support the elimination of tariffs on footwear via all vehicles, including through legislation, free trade agreements and the current WTO Doha Round negotiations. FDRA recognizes the Committee's established practice of considering legislation to temporarily suspend duties on products only where annual revenue losses from duty suspensions total approximately $500,000 or less. FDRA understands that revenue losses from duty suspensions under H.R. 3487 are higher, but the amount remains modest and eliminating these tariffs will benefit FDRA and its member companies and in no way affect any domestic production. Therefore, FDRA supports passage of H.R. 1221, H.R. 3386, H.R. 3387, H.R. 3388, H.R. 3389, H.R. 3391, H.R. 3392, H.R. 3393, H.R. 3394, H.R. 3395, H.R. 3483, H.R. 3484, H.R. 3485, H.R. 3486, H.R. 3487, H.R. 3488, H.R. 3489, H.R. 3490 and H.R. 3491.

Peter T. Mangione

Footwear Distributors and Retailers of America

Retailer Members

Bakers Footwear Group
Brown Shoe Company
Clarks Companies
Designer Shoe Warehouse (DSW)
Famous Footwear
FOOTACTIONUSA
Foot Locker, Inc.
Footstar, Inc.
Gap, Inc.
Genesco, Inc.
J.C. Penney Company

Meldisco
Naturalizer Retail
Payless ShoeSource
Sears, Roebuck & Company
Rack Room Shoes
Retail Ventures, Inc.
The Stride Rite Corporation
Value City
Vans, Inc.
Wal-Mart

Distributor Members

ACI
Aerogroup Int., Inc.
ASICS Tiger Corporation
ATSCO Footwear, Inc.
AZALÉIA
BBC International
BCNY International Inc.
Bennett Footwear Group
Cels Enterprises
C.O. Lynch
Cole Haan
Converse
Drew Shoe Corporation
Dynasty Footwear
Elan-Polo, Inc.
E.S. Originals
Global Brand Marketing, Inc.
Green Market Services
HYI
H.H. Brown Shoe Company
Inter Pacific Corporation
Jimlar Corporation
K–Swiss, Inc.
Jones Apparel/Nine West
Laird, Ltd
LJO, Inc
Mark Tucker, Inc.
Mephisto USA
Mercury International
Nike, Inc.
Olem Shoe Corporation
Prima Group Traders, Inc.
RANNA, Inc.
Reef
Reebok International
Renaissance Imports
Right Stuff, Inc.
Salland Industries LTD
Sara Lee
SG Footwear, Inc.
Skechers USA, Inc.
Street Cars, Inc.
The Rockport Company
The Topline Corporation
Valley Lane Industries
Wolverine World Wide

EXECUTIVE COMMITTEE

Ron Fromm, Brown Shoe Company, Chairman
Jim Issler, H.H. Brown Shoe Company, Vice-chairman
Killick Datta, Global Brand Marketing, Inc., Treasurer
Rick Mina, Foot Locker, Inc
Hal Pennington, Genesco, Inc.
Ernie Shore, Rack Room Shoes
Debbie Ferree, DSW
Melanie Owens, Wal-Mart Stores, Inc.*
Arthur Emmanuel, Wal-Mart Stores, Inc.
Debbie Kocks, Wal-Mart Stores, Inc.*
Greg Ribatt, Bennett Footwear Group
Robert Callahan, Elan-Polo, Inc.
Joey Safedy, E.S. Originals
Laurence Tarica, Jimlar Corporation
Alan Luchette, Jones Apparel/Nine West Group
Robert Cooperstein, Mercury International
William Snowden, Sr., The Topline Corporation
LuAnne Via, Sears, Roebuck and Company
Steve Duffy, Wolverine World Wide
Cecil McDermott, J.C. Penney
Rick Thornton, The Stride Rite Corporation
Matt Rubel, Payless ShoeSource
Pamela Salkovitz, The Stride Rite Corporation*
Jeff Shepard, Meldisco

EX–OFFICIO

Robert Campbell, BBC International
Irving Wiseman, Mercury International
Joseph Russell, Elan-Polo, Inc., Chairman
*Alternate member

Payless ShoeSouce, Inc.
Topeka, Kansas 66601
September 1, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

We are submitting these comments in response to the Subcommittee=s request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, we wish to express our **support** for the following bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
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H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Payless ShoeSource, Inc. is the Western Hemisphere's largest family footwear retailer, with over 4,600 stores across the United States, Canada, Central America and the Caribbean. The vast majority of those stores are located in the U.S. The Company employs over 27,000 associates worldwide.

Over the last 20 years, the production of footwear in the United States has dwindled to practically nothing. The footwear manufacturers still in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes.

Most footwear duties are therefore out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The above bills would eliminate the duties on several types of footwear but they have been carefully drafted so as not to affect the few remaining types which are still manufactured in the United States.

Duty-free entry of footwear would benefit the U.S. customer. The movement towards duty-free footwear would also be consistent with the overall direction the United States has taken in recently negotiated free trade agreements in Latin America.

Negotiations of the DR–CAFTA and the last miscellaneous tariff bill both served to engage the remaining domestic footwear interests in a discussion of exactly which types of shoes are still made in this country. As a result of those negotiations, all but 17 of the 115 shoe classifications codified under the Harmonized Tariff Schedule will be able to enter the U.S. duty-free from the Caribbean Basin countries and the Central American nations which become signatories to the DR–CAFTA.

To the extent any domestic footwear production still requires duty protection, that field has been clearly drawn to include only 17 shoe types. To avoid controversy, those 17 types are unaffected by the above bills.

As the members of the Subcommittee are aware, tariff bills of this nature contain explicit references to 8-digit HTS numbers. The text of the bills, though, describes shoes types which are identifiable at the more specific 10-digit HTS level. Thus, the fiscal impact of these bills is limited to the more narrowly described footwear types and is of a much lower magnitude than might otherwise be suggested by an analysis at the 8-digit level.

In summary, eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months. Also, the bills are designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me or Nicole Bivens Collinson of Sandler, Travis & Rosenberg, P.A., if you have any questions on these provisions or require additional information.

Sincerely,

Michael J. Massey
Senior Vice President
General Counsel and Secretary

Retail Industry Leaders Association
Arlington, Virginia 22209
September 2, 2005

The Honorable E. Clay Shaw
Chairman
House Ways & Means Trade Subcommittee
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Retail Industry Leaders Association (RILA), we welcome the opportunity to submit comments on technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. There are several provisions that RILA strongly supports or opposes in the list of potential bills to be included in the Miscellaneous Trade Bill.

By way of background, RILA is an alliance of the world's most successful and innovative retailer and supplier companies—the leaders of the retail industry. RILA members represent almost $1.4 trillion in sales annually and operate more than 100,000 stores, manufacturing facilities and distribution centers nationwide. Its member retailers and suppliers have facilities in all 50 states, as well as internationally, and employ millions of workers domestically and worldwide. Through RILA, leaders in the critical disciplines of the retail industry work together to improve their businesses and the industry as a whole.

H.R. 1121—A bill to repeal section 754 of the Tariff Act of 1930

RILA strongly supports the inclusion of H.R. 1121 in the Miscellaneous Trade and Tariff bill. Repeal of the "Byrd Amendment" is a top priority for RILA and its members. The Byrd Amendment annually funnels money collected from antidumping and countervailing duty cases directly to companies that file petitions. These payouts create a perverse incentive for companies to file petitions and add an increasing number of product categories to those petitions in hopes of collecting a financial windfall. In addition, the presence of the Byrd Amendment impedes the settlement of trade cases because of the financial incentive given to the petitioners.

Since enactment of the amendment, the number of antidumping petitions filed on consumer ready products has increased. As a result of the amendment, more than $1 billion has been distributed to domestic petitioners with no strings attached and with no measurable increase to competitiveness. Repeal would not affect the operation of antidumping and countervailing duty laws, but would remove the perverse incentive to file cases and would keep revenue collected in the government treasury to be spent in a more appropriate way. Congress should support "fair-trade" that

creates a level playing field for everyone, not just import-sensitive domestic industries.

In January 2003, the World Trade Organization Appellate Body affirmed an earlier ruling that the "Byrd Amendment" was a violation of U.S. WTO obligations. The U.S. should live up to its international obligations. The U.S. is now facing retaliatory tariffs from several countries on a wide range of products for not repealing the Byrd Amendment. In a time when export trade is so important to our economy, unnecessary duties stifle exports and cause widespread layoffs while corporate subsidies do nothing to enhance the competitiveness of domestic industries.

Consumers are the real losers in this process. By encouraging protectionist behavior, the Byrd Amendment drives up prices for American consumer by encouraging trade defense actions that can increase the cost of consumer goods. The taxpayer funds distributed as a result of the law could be better used for other purposes.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture

RILA strongly opposes this bill. Such a labeling provision is unnecessary and adds additional burdens and costs to importers and retailers. Under section 304 of the Tariff Act of 1930, imported home furniture is already required to have a permanent country of origin marking. We do not believe an additional labeling requirement is useful or appropriate.

Duty Suspension Bills

RILA supports the following duty suspension bills:

H.R. 3308—A bill to suspend temporarily the duty on erasers.
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We believe that these products are not made in the United States in commercial quantities sufficient to satisfy RILA members and their customers. As well, the duty on these products averages less than 5%.

RILA also supports the following footwear duty suspension bills:

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Eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow

for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

Conclusion

Thank you for the opportunity to submit comments on the Miscellaneous Trade and Tariff bill. If you have any questions, please contact Lori Denham, RILA's Senior Vice President for Policy and Planning or Jonathan Gold, RILA's Vice President Global Supply Chain Policy.

Sincerely,

Sandra L. Kennedy
President

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
3Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

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H.R. 2819—To suspend temporarily the duty on certain rubber basketballs.
H.R. 2820—To suspend temporarily the duty on certain volleyballs.
H.R. 2821—To suspend temporarily the duty on certain synthetic basketballs.
H.R. 3033—To (1) provide duty-free treatment for certain educational devices; and (2) extend such treatment through December 31, 2008.
H.R. 3112—To suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
H.R. 3113—To suspend temporarily the duty on certain cups, with or without saucers, of porcelain or china.
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H.R. 3115—To suspend temporarily the duty on certain clocks.
H.R. 3116—To suspend temporarily the duty on certain glass articles.
H.R. 3117—To suspend temporarily the duty on certain glass articles of lead crystal.
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H.R. 1221—To suspend the duty on certain rubber or plastic footwear.

H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
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H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
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H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman
Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20215

Dear Chairman Shaw:

On behalf of the American Apparel and Footwear Association—the national trade association of the apparel and footwear industries, and their suppliers—I am writing to express strong support for the following bills identified in the subject advisory.

HR 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements.

Comment: AAFA strongly supports this legislation and believes it is long overdue. The Committee for the Implementation of Textile Agreements (CITA) is responsible for far reaching decisions that deeply affect most AAFA members yet its actions are almost always taken behind closed doors with insufficient public scrutiny. This lack of transparency creates a highly unpredictable environment that is often perceived as being unfair. Recently, CITA has published guidelines to introduce some predictability into its deliberations. While we applaud those limited moves as a step in the right direction, we believe they are insufficient to provide the full accountability necessary for an intergovernmental agency which such responsibilities. Moreover, CITA has at times disregarded its own published guidelines as it has im-

plemented China safeguard and short supply procedures. As a result, AAFA supports bringing CITA under the full jurisdiction of the Administrative Procedures Act.

HR 1121—A bill to repeal section 754 of the Tariff Act of 1930.

Comment: AAFA strongly supports the repeal of the Byrd Amendment. The Byrd legislation was enacted outside of the regular legislative process, by committees that do not enjoy primary jurisdiction over trade issues, and with no opportunity for public comment. Moreover, as has been found by the World Trade Organization (WTO), this provision puts the United States out of compliance with its WTO obligations. In fact, the European Union is currently assessing penalties on U.S. produced clothing in retaliation. Other countries have threatened to do the same. AAFA believes repeal of this abominable provision should be made a priority.

HR 1221, HR 3386, HR 3387, HR 3388, HR 3389, HR 3391, HR 3392, HR 3393, HR 3394, HR 3395, HR 3483, HR 3484, HR 3485, HR 3486, HR 3487, HR 3488, HR 3489, HR 3490, HR 3491—Duty suspensions with respect to various footwear articles. [Note: This does not include HR 3390, which we understand has been withdrawn.]

Comment. AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

HR 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.

Comment: AAFA strongly supports this legislation. Our association supported an earlier version of this legislation in the 108th Congress. This legislation would result in duty reductions for cotton fabrics that are already designated in short supply under various trade preference programs because these fabrics are unavailable in the United States and in the preference countries. Given that finished shirts may enter duty free using these fabrics, we believe it is also appropriate to permit the fabrics themselves to enter duty free. Thus, U.S. domestic manufacturers of shirts will be able to enjoy equal access to those same high quality fabrics that foreign based manufacturers enjoy.

HR 2589/HR 2590—Two bills to extend the temporary suspension of duty on certain filament yarns

Comment. AAFA strongly supports these provisions. AAFA was involved in the development of the original legislation and understand that the conditions that led to successful passage of the original legislation, including the fact that the yarns in question are not produced domestically, continue to exist. Thus, these provisions should be extended.

HR 1230—A bill to extend trade benefits to certain tents imported into the United States.

Comments. AAFA strongly supports this provision. This legislation relates to certain camping tents which are not made in the United States. Moreover, similar but slightly smaller tents, differentiated only by the fact that they are classified as "backpacking" tents, already enjoy duty free treatment. This provision would correct that anomaly.

In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment of such provisions may also facilitate proper findings of short supply for those programs, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

Footwear Distributors and Retailers of America
Washington, DC 20004
September 2, 2005

The Hon. E. Clay Shaw
Chairman
House Ways and Means Subcommittee on Trade
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw,

This letter is being submitted by the Footwear Distributors and Retailers of America (FDRA) and its members in response to the Subcommittee's request for comments on Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills.

FDRA's members comprise U.S. footwear distributors and retailers that, together, account for approximately 80 percent of footwear sales at retail in the United States. Also, imports now account for 99 percent of U.S. consumption of footwear. In other words, the U.S. footwear market comprises nearly all imports; any remaining U.S. production competes on basis other than price and is not affected by the elimination of tariffs.

FDRA and its members support the elimination of tariffs on footwear via all vehicles, including through legislation, free trade agreements and the current WTO Doha Round negotiations. FDRA recognizes the Committee's established practice of considering legislation to temporarily suspend duties on products only where annual revenue losses from duty suspensions total approximately $500,000 or less. FDRA understands that revenue losses from duty suspensions under H.R. 3487 are higher, but the amount remains modest and eliminating these tariffs will benefit FDRA and its member companies and in no way affect any domestic production. Therefore, FDRA supports passage of H.R. 1221, H.R. 3386, H.R. 3387, H.R. 3388, H.R. 3389, H.R. 3391, H.R. 3392, H.R. 3393, H.R. 3394, H.R. 3395, H.R. 3483, H.R. 3484, H.R. 3485, H.R. 3486, H.R. 3487, H.R. 3488, H.R. 3489, H.R. 3490 and H.R. 3491.

Peter T. Mangione

Footwear Distributors and Retailers of America

Retailer Members

Bakers Footwear Group
Brown Shoe Company
Clarks Companies
Designer Shoe Warehouse (DSW)
Famous Footwear
FOOTACTIONUSA
Foot Locker, Inc.
Footstar, Inc.
Gap, Inc.
Genesco, Inc.
J.C. Penney Company
Meldisco
Naturalizer Retail
Payless ShoeSource
Sears, Roebuck & Company
Rack Room Shoes
Retail Ventures, Inc.
The Stride Rite Corporation
Value City
Vans, Inc.
Wal-Mart

Distributor Members

ACI
Aerogroup Int., Inc.
ASICS Tiger Corporation
ATSCO Footwear, Inc.
AZALEIA
BBC International
BCNY International Inc.
Bennett Footwear Group
Cels Enterprises
C.O. Lynch
Cole Haan
Converse
Drew Shoe Corporation
Dynasty Footwear
Elan-Polo, Inc.
E.S. Originals
Global Brand Marketing, Inc.
Green Market Services
HYI
H.H. Brown Shoe Company
Inter Pacific Corporation
Jimlar Corporation
K–Swiss, Inc.
Jones Apparel/Nine West
Laird, Ltd
LJO, Inc
Mark Tucker, Inc.
Mephisto USA
Mercury International
Nike, Inc.
Olem Shoe Corporation
Prima Group Traders, Inc.
RANNA, Inc.
Reef
Reebok International
Renaissance Imports

Right Stuff, Inc.
Salland Industries LTD
Sara Lee
SG Footwear, Inc.
Skechers USA, Inc.
Street Cars, Inc.
The Rockport Company
The Topline Corporation
Valley Lane Industries
Wolverine World Wide

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Robert Cooperstein, Mercury International
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LuAnne Via, Sears, Roebuck and Company
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Cecil McDermott, J.C. Penney
Rick Thornton, The Stride Rite Corporation
Matt Rubel, Payless ShoeSource
Pamela Salkovitz, The Stride Rite Corporation*
Jeff Shepard, Meldisco

EX–OFFICIO

Robert Campbell, BBC International
Irving Wiseman, Mercury International
Joseph Russell, Elan-Polo, Inc., Chairman
*Alternate member

Payless ShoeSouce, Inc.
Topeka, Kansas 66601
September 1, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

We are submitting these comments in response to the Subcommittee=s request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, we wish to express our **support** for the following bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
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H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.

H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Payless ShoeSource, Inc. is the Western Hemisphere's largest family footwear retailer, with over 4,600 stores across the United States, Canada, Central America and the Caribbean. The vast majority of those stores are located in the U.S. The Company employs over 27,000 associates worldwide.

Over the last 20 years, the production of footwear in the United States has dwindled to practically nothing. The footwear manufacturers still in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes.

Most footwear duties are therefore out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The above bills would eliminate the duties on several types of footwear but they have been carefully drafted so as not to affect the few remaining types which are still manufactured in the United States.

Duty-free entry of footwear would benefit the U.S. customer. The movement towards duty-free footwear would also be consistent with the overall direction the United States has taken in recently negotiated free trade agreements in Latin America.

Negotiations of the DR–CAFTA and the last miscellaneous tariff bill both served to engage the remaining domestic footwear interests in a discussion of exactly which types of shoes are still made in this country. As a result of those negotiations, all but 17 of the 115 shoe classifications codified under the Harmonized Tariff Schedule will be able to enter the U.S. duty-free from the Caribbean Basin countries and the Central American nations which become signatories to the DR–CAFTA.

To the extent any domestic footwear production still requires duty protection, that field has been clearly drawn to include only 17 shoe types. To avoid controversy, those 17 types are unaffected by the above bills.

As the members of the Subcommittee are aware, tariff bills of this nature contain explicit references to 8-digit HTS numbers. The text of the bills, though, describes shoes types which are identifiable at the more specific 10-digit HTS level. Thus, the fiscal impact of these bills is limited to the more narrowly described footwear types and is of a much lower magnitude than might otherwise be suggested by an analysis at the 8-digit level.

In summary, eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months. Also, the bills are designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me or Nicole Bivens Collinson of Sandler, Travis & Rosenberg, P.A., if you have any questions on these provisions or require additional information.

Sincerely,

Michael J. Massey
Senior Vice President
General Counsel and Secretary

Retail Industry Leaders Association
Arlington, Virginia 22209
September 2, 2005

The Honorable E. Clay Shaw
Chairman
House Ways & Means Trade Subcommittee
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Retail Industry Leaders Association (RILA), we welcome the opportunity to submit comments on technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. There are several provisions that RILA

strongly supports or opposes in the list of potential bills to be included in the Miscellaneous Trade Bill.

By way of background, RILA is an alliance of the world's most successful and innovative retailer and supplier companies—the leaders of the retail industry. RILA members represent almost $1.4 trillion in sales annually and operate more than 100,000 stores, manufacturing facilities and distribution centers nationwide. Its member retailers and suppliers have facilities in all 50 states, as well as internationally, and employ millions of workers domestically and worldwide. Through RILA, leaders in the critical disciplines of the retail industry work together to improve their businesses and the industry as a whole.

H.R. 1121—A bill to repeal section 754 of the Tariff Act of 1930

RILA strongly supports the inclusion of H.R. 1121 in the Miscellaneous Trade and Tariff bill. Repeal of the "Byrd Amendment" is a top priority for RILA and its members. The Byrd Amendment annually funnels money collected from antidumping and countervailing duty cases directly to companies that file petitions. These payouts create a perverse incentive for companies to file petitions and add an increasing number of product categories to those petitions in hopes of collecting a financial windfall. In addition, the presence of the Byrd Amendment impedes the settlement of trade cases because of the financial incentive given to the petitioners.

Since enactment of the amendment, the number of antidumping petitions filed on consumer ready products has increased. As a result of the amendment, more than $1 billion has been distributed to domestic petitioners with no strings attached and with no measurable increase to competitiveness. Repeal would not affect the operation of antidumping and countervailing duty laws, but would remove the perverse incentive to file cases and would keep revenue collected in the government treasury to be spent in a more appropriate way. Congress should support "fair-trade" that creates a level playing field for everyone, not just import-sensitive domestic industries.

In January 2003, the World Trade Organization Appellate Body affirmed an earlier ruling that the "Byrd Amendment" was a violation of U.S. WTO obligations. The U.S. should live up to its international obligations. The U.S. is now facing retaliatory tariffs from several countries on a wide range of products for not repealing the Byrd Amendment. In a time when export trade is so important to our economy, unnecessary duties stifle exports and cause widespread layoffs while corporate subsidies do nothing to enhance the competitiveness of domestic industries.

Consumers are the real losers in this process. By encouraging protectionist behavior, the Byrd Amendment drives up prices for American consumer by encouraging trade defense actions that can increase the cost of consumer goods. The taxpayer funds distributed as a result of the law could be better used for other purposes.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture

RILA strongly opposes this bill. Such a labeling provision is unnecessary and adds additional burdens and costs to importers and retailers. Under section 304 of the Tariff Act of 1930, imported home furniture is already required to have a permanent country of origin marking. We do not believe an additional labeling requirement is useful or appropriate.

Duty Suspension Bills

RILA supports the following duty suspension bills:

H.R. 3308—A bill to suspend temporarily the duty on erasers.

H.R. 3309—A bill to suspend temporarily the duty on nail clippers.

H.R. 3310—A bill to suspend temporarily the duty on artificial flowers.

H.R. 3311—A bill to suspend temporarily the duty on electric pencil sharpeners.

We believe that these products are not made in the United States in commercial quantities sufficient to satisfy RILA members and their customers. As well, the duty on these products averages less than 5%.

RILA also supports the following footwear duty suspension bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.

H.R. 3386—A bill to suspend temporarily the duty on certain footwear with open toes or heels.

H.R. 3387—A bill to suspend temporarily the duty on certain work footwear.

H.R. 3388—A bill to suspend temporarily the duty on certain women's footwear.

H.R. 3389—A bill to suspend temporarily the duty on certain footwear for girls.

H.R. 3390—A bill to suspend temporarily the duty on certain protective footwear.

H.R. 3391—A bill to suspend temporarily the duty on certain athletic footwear.

H.R. 3392—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
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H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
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H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Production of footwear in the United States has significantly declined over the last 20 years. Footwear manufacturers in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes

As a result, most of the current footwear duties are out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The footwear duty suspension bills being considered would eliminate the duties on several types of footwear, but will not affect the few remaining sensitive footwear categories which are still produced in the United States.

Eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

Conclusion

Thank you for the opportunity to submit comments on the Miscellaneous Trade and Tariff bill. If you have any questions, please contact Lori Denham, RILA's Senior Vice President for Policy and Planning or Jonathan Gold, RILA's Vice President Global Supply Chain Policy.

Sincerely,

Sandra L. Kennedy
President

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member,
Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its support for the following bills:

H.R. 3308—To suspend temporarily the duty on erasers.
H.R. 3309—To suspend temporarily the duty on nail clippers.
H.R. 3310—To suspend temporarily the duty on artificial flowers.
H.R. 3311—To suspend temporarily the duty on electrically operated pencil sharpeners.

H.R. 2477—To suspend, temporarily the duty on bicycle speedometers.
H.R. 2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-angle reflectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.
H.R. 2479—To suspend temporarily the duty on unicycles.
H.R. 2556—To suspend temporarily the duty on air freshener electric devices with warmer units.
H.R. 2557—To suspend temporarily the duty on air freshener electric devices.
H.R. 2817—To suspend temporarily the duty on certain basketballs.
H.R. 2818—To suspend temporarily the duty on certain leather basketballs.
H.R. 2819—To suspend temporarily the duty on certain rubber basketballs.
H.R. 2820—To suspend temporarily the duty on certain volleyballs.
H.R. 2821—To suspend temporarily the duty on certain synthetic basketballs.
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These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman
Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20215

Dear Chairman Shaw:

On behalf of the American Apparel and Footwear Association—the national trade association of the apparel and footwear industries, and their suppliers—I am writing to express strong support for the following bills identified in the subject advisory.

HR 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements.

Comment: AAFA strongly supports this legislation and believes it is long overdue. The Committee for the Implementation of Textile Agreements (CITA) is responsible for far reaching decisions that deeply affect most AAFA members yet its actions are almost always taken behind closed doors with insufficient public scrutiny. This lack of transparency creates a highly unpredictable environment that is often perceived as being unfair. Recently, CITA has published guidelines to introduce some predictability into its deliberations. While we applaud those limited moves as a step in the right direction, we believe they are insufficient to provide the full accountability necessary for an intergovernmental agency which such responsibilities. Moreover, CITA has at times disregarded its own published guidelines as it has implemented China safeguard and short supply procedures. As a result, AAFA supports bringing CITA under the full jurisdiction of the Administrative Procedures Act.

HR 1121—A bill to repeal section 754 of the Tariff Act of 1930.

Comment: AAFA strongly supports the repeal of the Byrd Amendment. The Byrd legislation was enacted outside of the regular legislative process, by committees that do not enjoy primary jurisdiction over trade issues, and with no opportunity for public comment. Moreover, as has been found by the World Trade Organization (WTO), this provision puts the United States out of compliance with its WTO obligations. In fact, the European Union is currently assessing penalties on U.S. produced clothing in retaliation. Other countries have threatened to do the same. AAFA believes repeal of this abominable provision should be made a priority.

HR 1221, HR 3386, HR 3387, HR 3388, HR 3389, HR 3391, HR 3392, HR 3393, HR 3394, HR 3395, HR 3483, HR 3484, HR 3485, HR 3486, HR 3487, HR 3488, HR 3489, HR 3490, HR 3491—Duty suspensions with respect to various footwear articles. [Note: This does not include HR 3390, which we understand has been withdrawn.]

Comment. AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

HR 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.

Comment: AAFA strongly supports this legislation. Our association supported an earlier version of this legislation in the 108th Congress. This legislation would result in duty reductions for cotton fabrics that are already designated in short supply under various trade preference programs because these fabrics are unavailable in the United States and in the preference countries. Given that finished shirts may enter duty free using these fabrics, we believe it is also appropriate to permit the fabrics themselves to enter duty free. Thus, U.S. domestic manufacturers of shirts will be able to enjoy equal access to those same high quality fabrics that foreign based manufacturers enjoy.

HR 2589/HR 2590—Two bills to extend the temporary suspension of duty on certain filament yarns

Comment. AAFA strongly supports these provisions. AAFA was involved in the development of the original legislation and understand that the conditions that led to successful passage of the original legislation, including the fact that the yarns in question are not produced domestically, continue to exist. Thus, these provisions should be extended.

HR 1230—A bill to extend trade benefits to certain tents imported into the United States.

Comments. AAFA strongly supports this provision. This legislation relates to certain camping tents which are not made in the United States. Moreover, similar but slightly smaller tents, differentiated only by the fact that they are classified as "backpacking" tents, already enjoy duty free treatment. This provision would correct that anomaly.

In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment of such provisions may also facilitate proper findings of short supply for those programs, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

Footwear Distributors and Retailers of America
Washington, DC 20004
September 2, 2005

The Hon. E. Clay Shaw
Chairman
House Ways and Means Subcommittee on Trade
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw,

This letter is being submitted by the Footwear Distributors and Retailers of America (FDRA) and its members in response to the Subcommittee's request for comments on *Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills.*

FDRA's members comprise U.S. footwear distributors and retailers that, together, account for approximately 80 percent of footwear sales at retail in the United States. Also, imports now account for 99 percent of U.S. consumption of footwear. In other words, the U.S. footwear market comprises nearly all imports; any remaining U.S. production competes on basis other than price and is not affected by the elimination of tariffs.

FDRA and its members support the elimination of tariffs on footwear via all vehicles, including through legislation, free trade agreements and the current WTO Doha Round negotiations. FDRA recognizes the Committee's established practice of considering legislation to temporarily suspend duties on products only where annual revenue losses from duty suspensions total approximately $500,000 or less. FDRA understands that revenue losses from duty suspensions under H.R. 3487 are higher, but the amount remains modest and eliminating these tariffs will benefit FDRA and its member companies and in no way affect any domestic production. Therefore, FDRA supports passage of H.R. 1221, H.R. 3386, H.R. 3387, H.R. 3388, H.R. 3389, H.R. 3391, H.R. 3392, H.R. 3393, H.R. 3394, H.R. 3395, H.R. 3483, H.R. 3484, H.R. 3485, H.R. 3486, H.R. 3487, H.R. 3488, H.R. 3489, H.R. 3490 and H.R. 3491.

Peter T. Mangione

Footwear Distributors and Retailers of America

Retailer Members

Bakers Footwear Group
Brown Shoe Company
Clarks Companies
Designer Shoe Warehouse (DSW)
Famous Footwear
FOOTACTIONUSA
Foot Locker, Inc.
Footstar, Inc.
Gap, Inc.
Genesco, Inc.
J.C. Penney Company

Meldisco
Naturalizer Retail
Payless ShoeSource
Sears, Roebuck & Company
Rack Room Shoes
Retail Ventures, Inc.
The Stride Rite Corporation
Value City
Vans, Inc.
Wal-Mart

Distributor Members

ACI
Aerogroup Int., Inc.
ASICS Tiger Corporation
ATSCO Footwear, Inc.
AZALÉIA
BBC International
BCNY International Inc.
Bennett Footwear Group
Cels Enterprises
C.O. Lynch
Cole Haan
Converse
Drew Shoe Corporation
Dynasty Footwear
Elan-Polo, Inc.
E.S. Originals
Global Brand Marketing, Inc.
Green Market Services
HYI
H.H. Brown Shoe Company
Inter Pacific Corporation
Jimlar Corporation
K–Swiss, Inc.
Jones Apparel/Nine West
Laird, Ltd
LJO, Inc
Mark Tucker, Inc.
Mephisto USA
Mercury International
Nike, Inc.
Olem Shoe Corporation
Prima Group Traders, Inc.
RANNA, Inc.
Reef
Reebok International
Renaissance Imports
Right Stuff, Inc.
Salland Industries LTD
Sara Lee
SG Footwear, Inc.
Skechers USA, Inc.
Street Cars, Inc.
The Rockport Company
The Topline Corporation
Valley Lane Industries
Wolverine World Wide

EXECUTIVE COMMITTEE

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Debbie Kocks, Wal-Mart Stores, Inc.*
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Laurence Tarica, Jimlar Corporation
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Rick Thornton, The Stride Rite Corporation
Matt Rubel, Payless ShoeSource
Pamela Salkovitz, The Stride Rite Corporation*
Jeff Shepard, Meldisco

EX–OFFICIO

Robert Campbell, BBC International
Irving Wiseman, Mercury International
Joseph Russell, Elan-Polo, Inc., Chairman
*Alternate member

Payless ShoeSouce, Inc.
Topeka, Kansas 66601
September 1, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

We are submitting these comments in response to the Subcommittee=s request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, we wish to express our *support* for the following bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
H.R. 3389—To suspend temporarily the duty on certain footwear for girls.
H.R. 3391—To suspend temporarily the duty on certain athletic footwear.
H.R. 3392—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—To suspend temporarily the duty on certain work footwear.
H.R. 3394—To suspend temporarily the duty on certain work footwear.
H.R. 3395—To suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Payless ShoeSource, Inc. is the Western Hemisphere's largest family footwear retailer, with over 4,600 stores across the United States, Canada, Central America and the Caribbean. The vast majority of those stores are located in the U.S. The Company employs over 27,000 associates worldwide.

Over the last 20 years, the production of footwear in the United States has dwindled to practically nothing. The footwear manufacturers still in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes.

Most footwear duties are therefore out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The above bills would eliminate the duties on several types of footwear but they have been carefully drafted so as not to affect the few remaining types which are still manufactured in the United States.

Duty-free entry of footwear would benefit the U.S. customer. The movement towards duty-free footwear would also be consistent with the overall direction the United States has taken in recently negotiated free trade agreements in Latin America.

Negotiations of the DR–CAFTA and the last miscellaneous tariff bill both served to engage the remaining domestic footwear interests in a discussion of exactly which types of shoes are still made in this country. As a result of those negotiations, all but 17 of the 115 shoe classifications codified under the Harmonized Tariff Schedule will be able to enter the U.S. duty-free from the Caribbean Basin countries and the Central American nations which become signatories to the DR–CAFTA.

To the extent any domestic footwear production still requires duty protection, that field has been clearly drawn to include only 17 shoe types. To avoid controversy, those 17 types are unaffected by the above bills.

As the members of the Subcommittee are aware, tariff bills of this nature contain explicit references to 8-digit HTS numbers. The text of the bills, though, describes shoes types which are identifiable at the more specific 10-digit HTS level. Thus, the fiscal impact of these bills is limited to the more narrowly described footwear types and is of a much lower magnitude than might otherwise be suggested by an analysis at the 8-digit level.

In summary, eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months. Also, the bills are designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me or Nicole Bivens Collinson of Sandler, Travis & Rosenberg, P.A., if you have any questions on these provisions or require additional information.

Sincerely,

Michael J. Massey
Senior Vice President
General Counsel and Secretary

Retail Industry Leaders Association
Arlington, Virginia 22209
September 2, 2005

The Honorable E. Clay Shaw
Chairman
House Ways & Means Trade Subcommittee
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Retail Industry Leaders Association (RILA), we welcome the opportunity to submit comments on technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. There are several provisions that RILA strongly supports or opposes in the list of potential bills to be included in the Miscellaneous Trade Bill.

By way of background, RILA is an alliance of the world's most successful and innovative retailer and supplier companies—the leaders of the retail industry. RILA members represent almost $1.4 trillion in sales annually and operate more than 100,000 stores, manufacturing facilities and distribution centers nationwide. Its member retailers and suppliers have facilities in all 50 states, as well as internationally, and employ millions of workers domestically and worldwide. Through RILA, leaders in the critical disciplines of the retail industry work together to improve their businesses and the industry as a whole.

H.R. 1121—A bill to repeal section 754 of the Tariff Act of 1930

RILA strongly supports the inclusion of H.R. 1121 in the Miscellaneous Trade and Tariff bill. Repeal of the "Byrd Amendment" is a top priority for RILA and its members. The Byrd Amendment annually funnels money collected from antidumping and countervailing duty cases directly to companies that file petitions. These payouts create a perverse incentive for companies to file petitions and add an increasing number of product categories to those petitions in hopes of collecting a financial windfall. In addition, the presence of the Byrd Amendment impedes the settlement of trade cases because of the financial incentive given to the petitioners.

Since enactment of the amendment, the number of antidumping petitions filed on consumer ready products has increased. As a result of the amendment, more than $1 billion has been distributed to domestic petitioners with no strings attached and with no measurable increase to competitiveness. Repeal would not affect the operation of antidumping and countervailing duty laws, but would remove the perverse incentive to file cases and would keep revenue collected in the government treasury to be spent in a more appropriate way. Congress should support "fair-trade" that

creates a level playing field for everyone, not just import-sensitive domestic industries.

In January 2003, the World Trade Organization Appellate Body affirmed an earlier ruling that the "Byrd Amendment" was a violation of U.S. WTO obligations. The U.S. should live up to its international obligations. The U.S. is now facing retaliatory tariffs from several countries on a wide range of products for not repealing the Byrd Amendment. In a time when export trade is so important to our economy, unnecessary duties stifle exports and cause widespread layoffs while corporate subsidies do nothing to enhance the competitiveness of domestic industries.

Consumers are the real losers in this process. By encouraging protectionist behavior, the Byrd Amendment drives up prices for American consumer by encouraging trade defense actions that can increase the cost of consumer goods. The taxpayer funds distributed as a result of the law could be better used for other purposes.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture

RILA strongly opposes this bill. Such a labeling provision is unnecessary and adds additional burdens and costs to importers and retailers. Under section 304 of the Tariff Act of 1930, imported home furniture is already required to have a permanent country of origin marking. We do not believe an additional labeling requirement is useful or appropriate.

Duty Suspension Bills

RILA supports the following duty suspension bills:

H.R. 3308—A bill to suspend temporarily the duty on erasers.
H.R. 3309—A bill to suspend temporarily the duty on nail clippers.
H.R. 3310—A bill to suspend temporarily the duty on artificial flowers.
H.R. 3311—A bill to suspend temporarily the duty on electric pencil sharpeners.

We believe that these products are not made in the United States in commercial quantities sufficient to satisfy RILA members and their customers. As well, the duty on these products averages less than 5%.

RILA also supports the following footwear duty suspension bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3388—A bill to suspend temporarily the duty on certain women's footwear.
H.R. 3389—A bill to suspend temporarily the duty on certain footwear for girls.
H.R. 3390—A bill to suspend temporarily the duty on certain protective footwear.
H.R. 3391—A bill to suspend temporarily the duty on certain athletic footwear.
H.R. 3392—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3394—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3395—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Production of footwear in the United States has significantly declined over the last 20 years. Footwear manufacturers in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes

As a result, most of the current footwear duties are out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The footwear duty suspension bills being considered would eliminate the duties on several types of footwear, but will not affect the few remaining sensitive footwear categories which are still produced in the United States.

Eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

Conclusion

Thank you for the opportunity to submit comments on the Miscellaneous Trade and Tariff bill. If you have any questions, please contact Lori Denham, RILA's Senior Vice President for Policy and Planning or Jonathan Gold, RILA's Vice President Global Supply Chain Policy.

Sincerely,

Sandra L. Kennedy
President

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member,
Subcommittee on Trade Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its support for the following bills:

H.R. 3308—To suspend temporarily the duty on erasers.
H.R. 3309—To suspend temporarily the duty on nail clippers.
H.R. 3310—To suspend temporarily the duty on artificial flowers.
H.R. 3311—To suspend temporarily the duty on electrically operated pencil sharpeners.
H.R. 2477—To suspend, temporarily the duty on bicycle speedometers.
H.R. 2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-angle reflectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.
H.R. 2479—To suspend temporarily the duty on unicycles.
H.R. 2556—To suspend temporarily the duty on air freshener electric devices with warmer units.
H.R. 2557—To suspend temporarily the duty on air freshener electric devices.
H.R. 2817—To suspend temporarily the duty on certain basketballs.
H.R. 2818—To suspend temporarily the duty on certain leather basketballs.
H.R. 2819—To suspend temporarily the duty on certain rubber basketballs.
H.R. 2820—To suspend temporarily the duty on certain volleyballs.
H.R. 2821—To suspend temporarily the duty on certain synthetic basketballs.
H.R. 3033—To (1) provide duty-free treatment for certain educational devices; and (2) extend such treatment through December 31, 2008.
H.R. 3112—To suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
H.R. 3113—To suspend temporarily the duty on certain cups, with or without saucers, of porcelain or china.
H.R. 3114—To suspend temporarily the duty on certain flags.
H.R. 3115—To suspend temporarily the duty on certain clocks.
H.R. 3116—To suspend temporarily the duty on certain glass articles.
H.R. 3117—To suspend temporarily the duty on certain glass articles of lead crystal.
H.R. 3118—To suspend temporarily the duty on certain music boxes.

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
H.R. 3389—To suspend temporarily the duty on certain footwear for girls.
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H.R. 3395—To suspend temporarily the duty on certain work footwear.
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H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman
Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20215

Dear Chairman Shaw:

On behalf of the American Apparel and Footwear Association—the national trade association of the apparel and footwear industries, and their suppliers—I am writing to express strong support for the following bills identified in the subject advisory.

HR 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements.

Comment: AAFA strongly supports this legislation and believes it is long overdue. The Committee for the Implementation of Textile Agreements (CITA) is responsible for far reaching decisions that deeply affect most AAFA members yet its actions are almost always taken behind closed doors with insufficient public scrutiny. This lack of transparency creates a highly unpredictable environment that is often perceived as being unfair. Recently, CITA has published guidelines to introduce some predictability into its deliberations. While we applaud those limited moves as a step in the right direction, we believe they are insufficient to provide the full accountability necessary for an intergovernmental agency which such responsibilities.

Moreover, CITA has at times disregarded its own published guidelines as it has implemented China safeguard and short supply procedures. As a result, AAFA supports bringing CITA under the full jurisdiction of the Administrative Procedures Act.

HR 1121—A bill to repeal section 754 of the Tariff Act of 1930.

Comment: AAFA strongly supports the repeal of the Byrd Amendment. The Byrd legislation was enacted outside of the regular legislative process, by committees that do not enjoy primary jurisdiction over trade issues, and with no opportunity for public comment. Moreover, as has been found by the World Trade Organization (WTO), this provision puts the United States out of compliance with its WTO obligations. In fact, the European Union is currently assessing penalties on U.S. produced clothing in retaliation. Other countries have threatened to do the same. AAFA believes repeal of this abominable provision should be made a priority.

HR 1221, HR 3386, HR 3387, HR 3388, HR 3389, HR 3391, HR 3392, HR 3393, HR 3394, HR 3395, HR 3483, HR 3484, HR 3485, HR 3486, HR 3487, HR 3488, HR 3489, HR 3490, HR 3491—Duty suspensions with respect to various footwear articles. [Note: This does not include HR 3390, which we understand has been withdrawn.]

Comment. AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

HR 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.

Comment: AAFA strongly supports this legislation. Our association supported an earlier version of this legislation in the 108th Congress. This legislation would result in duty reductions for cotton fabrics that are already designated in short supply under various trade preference programs because these fabrics are unavailable in the United States and in the preference countries. Given that finished shirts may enter duty free using these fabrics, we believe it is also appropriate to permit the fabrics themselves to enter duty free. Thus, U.S. domestic manufacturers of shirts will be able to enjoy equal access to those same high quality fabrics that foreign based manufacturers enjoy.

HR 2589/HR 2590—Two bills to extend the temporary suspension of duty on certain filament yarns

Comment. AAFA strongly supports these provisions. AAFA was involved in the development of the original legislation and understand that the conditions that led to successful passage of the original legislation, including the fact that the yarns in question are not produced domestically, continue to exist. Thus, these provisions should be extended.

HR 1230—A bill to extend trade benefits to certain tents imported into the United States.

Comments. AAFA strongly supports this provision. This legislation relates to certain camping tents which are not made in the United States. Moreover, similar but slightly smaller tents, differentiated only by the fact that they are classified as "backpacking" tents, already enjoy duty free treatment. This provision would correct that anomaly.

In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment of such provisions may also facilitate proper findings of short supply for those programs, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

Footwear Distributors and Retailers of America
Washington, DC 20004
September 2, 2005

The Hon. E. Clay Shaw
Chairman
House Ways and Means Subcommittee on Trade
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw,

This letter is being submitted by the Footwear Distributors and Retailers of America (FDRA) and its members in response to the Subcommittee's request for comments on Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills.

FDRA's members comprise U.S. footwear distributors and retailers that, together, account for approximately 80 percent of footwear sales at retail in the United States. Also, imports now account for 99 percent of U.S. consumption of footwear. In other words, the U.S. footwear market comprises nearly all imports; any remaining U.S. production competes on basis other than price and is not affected by the elimination of tariffs.

FDRA and its members support the elimination of tariffs on footwear via all vehicles, including through legislation, free trade agreements and the current WTO Doha Round negotiations. FDRA recognizes the Committee's established practice of considering legislation to temporarily suspend duties on products only where annual revenue losses from duty suspensions total approximately $500,000 or less. FDRA understands that revenue losses from duty suspensions under H.R. 3487 are higher, but the amount remains modest and eliminating these tariffs will benefit FDRA and its member companies and in no way affect any domestic production. Therefore, FDRA supports passage of H.R. 1221, H.R. 3386, H.R. 3387, H.R. 3388, H.R. 3389, H.R. 3391, H.R. 3392, H.R. 3393, H.R. 3394, H.R. 3395, H.R. 3483, H.R. 3484, H.R. 3485, H.R. 3486, H.R. 3487, H.R. 3488, H.R. 3489, H.R. 3490 and H.R. 3491.

Peter T. Mangione

Footwear Distributors and Retailers of America

Retailer Members

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Retail Ventures, Inc.
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Cole Haan
Converse
Drew Shoe Corporation
Dynasty Footwear
Elan-Polo, Inc.
E.S. Originals
Global Brand Marketing, Inc.
Green Market Services
HYI
H.H. Brown Shoe Company
Inter Pacific Corporation
Jimlar Corporation
K–Swiss, Inc.
Jones Apparel/Nine West
Laird, Ltd
LJO, Inc
Mark Tucker, Inc.
Mephisto USA
Mercury International
Nike, Inc.
Olem Shoe Corporation
Prima Group Traders, Inc.
RANNA, Inc.
Reef
Reebok International
Renaissance Imports

Right Stuff, Inc.
Salland Industries LTD
Sara Lee
SG Footwear, Inc.
Skechers USA, Inc.
Street Cars, Inc.
The Rockport Company
The Topline Corporation
Valley Lane Industries
Wolverine World Wide

EXECUTIVE COMMITTEE

Ron Fromm, Brown Shoe Company, Chairman
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Jeff Shepard, Meldisco

EX–OFFICIO

Robert Campbell, BBC International
Irving Wiseman, Mercury International
Joseph Russell, Elan-Polo, Inc., Chairman
*Alternate member

Payless ShoeSouce, Inc.
Topeka, Kansas 66601
September 1, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

We are submitting these comments in response to the Subcommittee=s request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, we wish to express our support for the following bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
H.R. 3389—To suspend temporarily the duty on certain footwear for girls.
H.R. 3391—To suspend temporarily the duty on certain athletic footwear.
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H.R. 3488—To suspend temporarily the duty on certain work footwear.

H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Payless ShoeSource, Inc. is the Western Hemisphere's largest family footwear retailer, with over 4,600 stores across the United States, Canada, Central America and the Caribbean. The vast majority of those stores are located in the U.S. The Company employs over 27,000 associates worldwide.

Over the last 20 years, the production of footwear in the United States has dwindled to practically nothing. The footwear manufacturers still in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes.

Most footwear duties are therefore out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The above bills would eliminate the duties on several types of footwear but they have been carefully drafted so as not to affect the few remaining types which are still manufactured in the United States.

Duty-free entry of footwear would benefit the U.S. customer. The movement towards duty-free footwear would also be consistent with the overall direction the United States has taken in recently negotiated free trade agreements in Latin America.

Negotiations of the DR–CAFTA and the last miscellaneous tariff bill both served to engage the remaining domestic footwear interests in a discussion of exactly which types of shoes are still made in this country. As a result of those negotiations, all but 17 of the 115 shoe classifications codified under the Harmonized Tariff Schedule will be able to enter the U.S. duty-free from the Caribbean Basin countries and the Central American nations which become signatories to the DR–CAFTA.

To the extent any domestic footwear production still requires duty protection, that field has been clearly drawn to include only 17 shoe types. To avoid controversy, those 17 types are unaffected by the above bills.

As the members of the Subcommittee are aware, tariff bills of this nature contain explicit references to 8-digit HTS numbers. The text of the bills, though, describes shoes types which are identifiable at the more specific 10-digit HTS level. Thus, the fiscal impact of these bills is limited to the more narrowly described footwear types and is of a much lower magnitude than might otherwise be suggested by an analysis at the 8-digit level.

In summary, eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months. Also, the bills are designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me or Nicole Bivens Collinson of Sandler, Travis & Rosenberg, P.A., if you have any questions on these provisions or require additional information.

Sincerely,

Michael J. Massey
Senior Vice President
General Counsel and Secretary

Retail Industry Leaders Association
Arlington, Virginia 22209
September 2, 2005

The Honorable E. Clay Shaw
Chairman
House Ways & Means Trade Subcommittee
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Retail Industry Leaders Association (RILA), we welcome the opportunity to submit comments on technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. There are several provisions that RILA

strongly supports or opposes in the list of potential bills to be included in the Miscellaneous Trade Bill.

By way of background, RILA is an alliance of the world's most successful and innovative retailer and supplier companies—the leaders of the retail industry. RILA members represent almost $1.4 trillion in sales annually and operate more than 100,000 stores, manufacturing facilities and distribution centers nationwide. Its member retailers and suppliers have facilities in all 50 states, as well as internationally, and employ millions of workers domestically and worldwide. Through RILA, leaders in the critical disciplines of the retail industry work together to improve their businesses and the industry as a whole.

H.R. 1121—A bill to repeal section 754 of the Tariff Act of 1930

RILA strongly supports the inclusion of H.R. 1121 in the Miscellaneous Trade and Tariff bill. Repeal of the "Byrd Amendment" is a top priority for RILA and its members. The Byrd Amendment annually funnels money collected from antidumping and countervailing duty cases directly to companies that file petitions. These payouts create a perverse incentive for companies to file petitions and add an increasing number of product categories to those petitions in hopes of collecting a financial windfall. In addition, the presence of the Byrd Amendment impedes the settlement of trade cases because of the financial incentive given to the petitioners.

Since enactment of the amendment, the number of antidumping petitions filed on consumer ready products has increased. As a result of the amendment, more than $1 billion has been distributed to domestic petitioners with no strings attached and with no measurable increase to competitiveness. Repeal would not affect the operation of antidumping and countervailing duty laws, but would remove the perverse incentive to file cases and would keep revenue collected in the government treasury to be spent in a more appropriate way. Congress should support "fair-trade" that creates a level playing field for everyone, not just import-sensitive domestic industries.

In January 2003, the World Trade Organization Appellate Body affirmed an earlier ruling that the "Byrd Amendment" was a violation of U.S. WTO obligations. The U.S. should live up to its international obligations. The U.S. is now facing retaliatory tariffs from several countries on a wide range of products for not repealing the Byrd Amendment. In a time when export trade is so important to our economy, unnecessary duties stifle exports and cause widespread layoffs while corporate subsidies do nothing to enhance the competitiveness of domestic industries.

Consumers are the real losers in this process. By encouraging protectionist behavior, the Byrd Amendment drives up prices for American consumer by encouraging trade defense actions that can increase the cost of consumer goods. The taxpayer funds distributed as a result of the law could be better used for other purposes.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture

RILA strongly opposes this bill. Such a labeling provision is unnecessary and adds additional burdens and costs to importers and retailers. Under section 304 of the Tariff Act of 1930, imported home furniture is already required to have a permanent country of origin marking. We do not believe an additional labeling requirement is useful or appropriate.

Duty Suspension Bills

RILA supports the following duty suspension bills:

H.R. 3308—A bill to suspend temporarily the duty on erasers.

H.R. 3309—A bill to suspend temporarily the duty on nail clippers.

H.R. 3310—A bill to suspend temporarily the duty on artificial flowers.

H.R. 3311—A bill to suspend temporarily the duty on electric pencil sharpeners.

We believe that these products are not made in the United States in commercial quantities sufficient to satisfy RILA members and their customers. As well, the duty on these products averages less than 5%.

RILA also supports the following footwear duty suspension bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.

H.R. 3386—A bill to suspend temporarily the duty on certain footwear with open toes or heels.

H.R. 3387—A bill to suspend temporarily the duty on certain work footwear.

H.R. 3388—A bill to suspend temporarily the duty on certain women's footwear.

H.R. 3389—A bill to suspend temporarily the duty on certain footwear for girls.

H.R. 3390—A bill to suspend temporarily the duty on certain protective footwear.

H.R. 3391—A bill to suspend temporarily the duty on certain athletic footwear.

H.R. 3392—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—A bill to suspend temporarily the duty on certain work footwear.
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H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
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H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Production of footwear in the United States has significantly declined over the last 20 years. Footwear manufacturers in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes

As a result, most of the current footwear duties are out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The footwear duty suspension bills being considered would eliminate the duties on several types of footwear, but will not affect the few remaining sensitive footwear categories which are still produced in the United States.

Eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

Conclusion

Thank you for the opportunity to submit comments on the Miscellaneous Trade and Tariff bill. If you have any questions, please contact Lori Denham, RILA's Senior Vice President for Policy and Planning or Jonathan Gold, RILA's Vice President Global Supply Chain Policy.

Sincerely,

Sandra L. Kennedy
President

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515
The Honorable Ben Cardin
Ranking Member,
Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its support for the following bills:

H.R. 3308—To suspend temporarily the duty on erasers.
H.R. 3309—To suspend temporarily the duty on nail clippers.
H.R. 3310—To suspend temporarily the duty on artificial flowers.
H.R. 3311—To suspend temporarily the duty on electrically operated pencil sharpeners.

H.R. 2477—To suspend, temporarily the duty on bicycle speedometers.
H.R. 2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-angle reflectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.
H.R. 2479—To suspend temporarily the duty on unicycles.
H.R. 2556—To suspend temporarily the duty on air freshener electric devices with warmer units.
H.R. 2557—To suspend temporarily the duty on air freshener electric devices.
H.R. 2817—To suspend temporarily the duty on certain basketballs.
H.R. 2818—To suspend temporarily the duty on certain leather basketballs.
H.R. 2819—To suspend temporarily the duty on certain rubber basketballs.
H.R. 2820—To suspend temporarily the duty on certain volleyballs.
H.R. 2821—To suspend temporarily the duty on certain synthetic basketballs.
H.R. 3033—To (1) provide duty-free treatment for certain educational devices; and (2) extend such treatment through December 31, 2008.
H.R. 3112—To suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
H.R. 3113—To suspend temporarily the duty on certain cups, with or without saucers, of porcelain or china.
H.R. 3114—To suspend temporarily the duty on certain flags.
H.R. 3115—To suspend temporarily the duty on certain clocks.
H.R. 3116—To suspend temporarily the duty on certain glass articles.
H.R. 3117—To suspend temporarily the duty on certain glass articles of lead crystal.
H.R. 3118—To suspend temporarily the duty on certain music boxes.
H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
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H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman
Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20215

Dear Chairman Shaw:

On behalf of the American Apparel and Footwear Association—the national trade association of the apparel and footwear industries, and their suppliers—I am writing to express strong support for the following bills identified in the subject advisory.

HR 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements.

Comment: AAFA strongly supports this legislation and believes it is long overdue. The Committee for the Implementation of Textile Agreements (CITA) is responsible for far reaching decisions that deeply affect most AAFA members yet its actions are almost always taken behind closed doors with insufficient public scrutiny. This lack of transparency creates a highly unpredictable environment that is often perceived as being unfair. Recently, CITA has published guidelines to introduce some predictability into its deliberations. While we applaud those limited moves as a step in the right direction, we believe they are insufficient to provide the full accountability necessary for an intergovernmental agency which such responsibilities. Moreover, CITA has at times disregarded its own published guidelines as it has implemented China safeguard and short supply procedures. As a result, AAFA supports bringing CITA under the full jurisdiction of the Administrative Procedures Act.

HR 1121—A bill to repeal section 754 of the Tariff Act of 1930.

Comment: AAFA strongly supports the repeal of the Byrd Amendment. The Byrd legislation was enacted outside of the regular legislative process, by committees that do not enjoy primary jurisdiction over trade issues, and with no opportunity for public comment. Moreover, as has been found by the World Trade Organization (WTO), this provision puts the United States out of compliance with its WTO obligations. In fact, the European Union is currently assessing penalties on U.S. produced clothing in retaliation. Other countries have threatened to do the same. AAFA believes repeal of this abominable provision should be made a priority.

HR 1221, HR 3386, HR 3387, HR 3388, HR 3389, HR 3391, HR 3392, HR 3393, HR 3394, HR 3395, HR 3483, HR 3484, HR 3485, HR 3486, HR 3487, HR 3488, HR 3489, HR 3490, HR 3491—Duty suspensions with respect to various footwear articles. [Note: This does not include HR 3390, which we understand has been withdrawn.]

Comment. AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

HR 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.

Comment: AAFA strongly supports this legislation. Our association supported an earlier version of this legislation in the 108th Congress. This legislation would result in duty reductions for cotton fabrics that are already designated in short supply under various trade preference programs because these fabrics are unavailable in the United States and in the preference countries. Given that finished shirts may enter duty free using these fabrics, we believe it is also appropriate to permit the fabrics themselves to enter duty free. Thus, U.S. domestic manufacturers of shirts will be able to enjoy equal access to those same high quality fabrics that foreign based manufacturers enjoy.

HR 2589/HR 2590—Two bills to extend the temporary suspension of duty on certain filament yarns

Comment. AAFA strongly supports these provisions. AAFA was involved in the development of the original legislation and understand that the conditions that led to successful passage of the original legislation, including the fact that the yarns in question are not produced domestically, continue to exist. Thus, these provisions should be extended.

HR 1230—A bill to extend trade benefits to certain tents imported into the United States.

Comments. AAFA strongly supports this provision. This legislation relates to certain camping tents which are not made in the United States. Moreover, similar but slightly smaller tents, differentiated only by the fact that they are classified as "backpacking" tents, already enjoy duty free treatment. This provision would correct that anomaly.

In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment of such provisions may also facilitate proper findings of short supply for those programs, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

Footwear Distributors and Retailers of America
Washington, DC 20004
September 2, 2005

The Hon. E. Clay Shaw
Chairman
House Ways and Means Subcommittee on Trade
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw,

This letter is being submitted by the Footwear Distributors and Retailers of America (FDRA) and its members in response to the Subcommittee's request for comments on Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills.

FDRA's members comprise U.S. footwear distributors and retailers that, together, account for approximately 80 percent of footwear sales at retail in the United States. Also, imports now account for 99 percent of U.S. consumption of footwear. In other words, the U.S. footwear market comprises nearly all imports; any remaining U.S. production competes on basis other than price and is not affected by the elimination of tariffs.

FDRA and its members support the elimination of tariffs on footwear via all vehicles, including through legislation, free trade agreements and the current WTO Doha Round negotiations. FDRA recognizes the Committee's established practice of considering legislation to temporarily suspend duties on products only where annual revenue losses from duty suspensions total approximately $500,000 or less. FDRA understands that revenue losses from duty suspensions under H.R. 3487 are higher, but the amount remains modest and eliminating these tariffs will benefit FDRA and its member companies and in no way affect any domestic production. Therefore, FDRA supports passage of H.R. 1221, H.R. 3386, H.R. 3387, H.R. 3388, H.R. 3389, H.R. 3391, H.R. 3392, H.R. 3393, H.R. 3394, H.R. 3395, H.R. 3483, H.R. 3484, H.R. 3485, H.R. 3486, H.R. 3487, H.R. 3488, H.R. 3489, H.R. 3490 and H.R. 3491.

Peter T. Mangione

Footwear Distributors and Retailers of America

Retailer Members

Bakers Footwear Group
Brown Shoe Company
Clarks Companies
Designer Shoe Warehouse (DSW)
Famous Footwear
FOOTACTIONUSA
Foot Locker, Inc.
Footstar, Inc.
Gap, Inc.
Genesco, Inc.
J.C. Penney Company

Meldisco
Naturalizer Retail
Payless ShoeSource
Sears, Roebuck & Company
Rack Room Shoes
Retail Ventures, Inc.
The Stride Rite Corporation
Value City
Vans, Inc.
Wal-Mart

Distributor Members

ACI
Aerogroup Int., Inc.
ASICS Tiger Corporation
ATSCO Footwear, Inc.
AZALÉIA
BBC International
BCNY International Inc.
Bennett Footwear Group
Cels Enterprises
C.O. Lynch
Cole Haan
Converse
Drew Shoe Corporation
Dynasty Footwear
Elan-Polo, Inc.
E.S. Originals
Global Brand Marketing, Inc.
Green Market Services
HYI
H.H. Brown Shoe Company
Inter Pacific Corporation
Jimlar Corporation
K–Swiss, Inc.
Jones Apparel/Nine West
Laird, Ltd
LJO, Inc
Mark Tucker, Inc.
Mephisto USA
Mercury International
Nike, Inc.
Olem Shoe Corporation
Prima Group Traders, Inc.
RANNA, Inc.
Reef
Reebok International
Renaissance Imports
Right Stuff, Inc.
Salland Industries LTD
Sara Lee
SG Footwear, Inc.
Skechers USA, Inc.
Street Cars, Inc.
The Rockport Company
The Topline Corporation
Valley Lane Industries
Wolverine World Wide

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Payless ShoeSouce, Inc.
Topeka, Kansas 66601
September 1, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

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H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
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Payless ShoeSource, Inc. is the Western Hemisphere's largest family footwear retailer, with over 4,600 stores across the United States, Canada, Central America and the Caribbean. The vast majority of those stores are located in the U.S. The Company employs over 27,000 associates worldwide.

Over the last 20 years, the production of footwear in the United States has dwindled to practically nothing. The footwear manufacturers still in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes.

Most footwear duties are therefore out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The above bills would eliminate the duties on several types of footwear but they have been carefully drafted so as not to affect the few remaining types which are still manufactured in the United States.

Duty-free entry of footwear would benefit the U.S. customer. The movement towards duty-free footwear would also be consistent with the overall direction the United States has taken in recently negotiated free trade agreements in Latin America.

Negotiations of the DR–CAFTA and the last miscellaneous tariff bill both served to engage the remaining domestic footwear interests in a discussion of exactly which types of shoes are still made in this country. As a result of those negotiations, all but 17 of the 115 shoe classifications codified under the Harmonized Tariff Schedule will be able to enter the U.S. duty-free from the Caribbean Basin countries and the Central American nations which become signatories to the DR–CAFTA.

To the extent any domestic footwear production still requires duty protection, that field has been clearly drawn to include only 17 shoe types. To avoid controversy, those 17 types are unaffected by the above bills.

As the members of the Subcommittee are aware, tariff bills of this nature contain explicit references to 8-digit HTS numbers. The text of the bills, though, describes shoes types which are identifiable at the more specific 10-digit HTS level. Thus, the fiscal impact of these bills is limited to the more narrowly described footwear types and is of a much lower magnitude than might otherwise be suggested by an analysis at the 8-digit level.

In summary, eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months. Also, the bills are designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me or Nicole Bivens Collinson of Sandler, Travis & Rosenberg, P.A., if you have any questions on these provisions or require additional information.

Sincerely,

Michael J. Massey
Senior Vice President
General Counsel and Secretary

Retail Industry Leaders Association
Arlington, Virginia 22209
September 2, 2005

The Honorable E. Clay Shaw
Chairman
House Ways & Means Trade Subcommittee
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Retail Industry Leaders Association (RILA), we welcome the opportunity to submit comments on technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. There are several provisions that RILA strongly supports or opposes in the list of potential bills to be included in the Miscellaneous Trade Bill.

By way of background, RILA is an alliance of the world's most successful and innovative retailer and supplier companies—the leaders of the retail industry. RILA members represent almost $1.4 trillion in sales annually and operate more than 100,000 stores, manufacturing facilities and distribution centers nationwide. Its member retailers and suppliers have facilities in all 50 states, as well as internationally, and employ millions of workers domestically and worldwide. Through RILA, leaders in the critical disciplines of the retail industry work together to improve their businesses and the industry as a whole.

H.R. 1121—A bill to repeal section 754 of the Tariff Act of 1930

RILA strongly supports the inclusion of H.R. 1121 in the Miscellaneous Trade and Tariff bill. Repeal of the "Byrd Amendment" is a top priority for RILA and its members. The Byrd Amendment annually funnels money collected from antidumping and countervailing duty cases directly to companies that file petitions. These payouts create a perverse incentive for companies to file petitions and add an increasing number of product categories to those petitions in hopes of collecting a financial windfall. In addition, the presence of the Byrd Amendment impedes the settlement of trade cases because of the financial incentive given to the petitioners.

Since enactment of the amendment, the number of antidumping petitions filed on consumer ready products has increased. As a result of the amendment, more than $1 billion has been distributed to domestic petitioners with no strings attached and with no measurable increase to competitiveness. Repeal would not affect the operation of antidumping and countervailing duty laws, but would remove the perverse incentive to file cases and would keep revenue collected in the government treasury to be spent in a more appropriate way. Congress should support "fair-trade" that

creates a level playing field for everyone, not just import-sensitive domestic industries.

In January 2003, the World Trade Organization Appellate Body affirmed an earlier ruling that the "Byrd Amendment" was a violation of U.S. WTO obligations. The U.S. should live up to its international obligations. The U.S. is now facing retaliatory tariffs from several countries on a wide range of products for not repealing the Byrd Amendment. In a time when export trade is so important to our economy, unnecessary duties stifle exports and cause widespread layoffs while corporate subsidies do nothing to enhance the competitiveness of domestic industries.

Consumers are the real losers in this process. By encouraging protectionist behavior, the Byrd Amendment drives up prices for American consumer by encouraging trade defense actions that can increase the cost of consumer goods. The taxpayer funds distributed as a result of the law could be better used for other purposes.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture

RILA strongly opposes this bill. Such a labeling provision is unnecessary and adds additional burdens and costs to importers and retailers. Under section 304 of the Tariff Act of 1930, imported home furniture is already required to have a permanent country of origin marking. We do not believe an additional labeling requirement is useful or appropriate.

Duty Suspension Bills

RILA supports the following duty suspension bills:

H.R. 3308—A bill to suspend temporarily the duty on erasers.
H.R. 3309—A bill to suspend temporarily the duty on nail clippers.
H.R. 3310—A bill to suspend temporarily the duty on artificial flowers.
H.R. 3311—A bill to suspend temporarily the duty on electric pencil sharpeners.

We believe that these products are not made in the United States in commercial quantities sufficient to satisfy RILA members and their customers. As well, the duty on these products averages less than 5%.

RILA also supports the following footwear duty suspension bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3388—A bill to suspend temporarily the duty on certain women's footwear.
H.R. 3389—A bill to suspend temporarily the duty on certain footwear for girls.
H.R. 3390—A bill to suspend temporarily the duty on certain protective footwear.
H.R. 3391—A bill to suspend temporarily the duty on certain athletic footwear.
H.R. 3392—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
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H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Production of footwear in the United States has significantly declined over the last 20 years. Footwear manufacturers in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes

As a result, most of the current footwear duties are out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The footwear duty suspension bills being considered would eliminate the duties on several types of footwear, but will not affect the few remaining sensitive footwear categories which are still produced in the United States.

Eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow

for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

Conclusion

Thank you for the opportunity to submit comments on the Miscellaneous Trade and Tariff bill. If you have any questions, please contact Lori Denham, RILA's Senior Vice President for Policy and Planning or Jonathan Gold, RILA's Vice President Global Supply Chain Policy.

Sincerely,

Sandra L. Kennedy
President

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member,
Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its support for the following bills:

H.R. 3308—To suspend temporarily the duty on erasers.
H.R. 3309—To suspend temporarily the duty on nail clippers.
H.R. 3310—To suspend temporarily the duty on artificial flowers.
H.R. 3311—To suspend temporarily the duty on electrically operated pencil sharpeners.
H.R. 2477—To suspend, temporarily the duty on bicycle speedometers.
H.R. 2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-angle reflectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.
H.R. 2479—To suspend temporarily the duty on unicycles.
H.R. 2556—To suspend temporarily the duty on air freshener electric devices with warmer units.
H.R. 2557—To suspend temporarily the duty on air freshener electric devices.
H.R. 2817—To suspend temporarily the duty on certain basketballs.
H.R. 2818—To suspend temporarily the duty on certain leather basketballs.
H.R. 2819—To suspend temporarily the duty on certain rubber basketballs.
H.R. 2820—To suspend temporarily the duty on certain volleyballs.
H.R. 2821—To suspend temporarily the duty on certain synthetic basketballs.
H.R. 3033—To (1) provide duty-free treatment for certain educational devices; and (2) extend such treatment through December 31, 2008.
H.R. 3112—To suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
H.R. 3113—To suspend temporarily the duty on certain cups, with or without saucers, of porcelain or china.
H.R. 3114—To suspend temporarily the duty on certain flags.
H.R. 3115—To suspend temporarily the duty on certain clocks.
H.R. 3116—To suspend temporarily the duty on certain glass articles.
H.R. 3117—To suspend temporarily the duty on certain glass articles of lead crystal.
H.R. 3118—To suspend temporarily the duty on certain music boxes.
H.R. 1221—To suspend the duty on certain rubber or plastic footwear.

H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
H.R. 3389—To suspend temporarily the duty on certain footwear for girls.
H.R. 3391—To suspend temporarily the duty on certain athletic footwear.
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H.R. 3393—To suspend temporarily the duty on certain work footwear.
H.R. 3394—To suspend temporarily the duty on certain work footwear.
H.R. 3395—To suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman
Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20215

Dear Chairman Shaw:

On behalf of the American Apparel and Footwear Association—the national trade association of the apparel and footwear industries, and their suppliers—I am writing to express strong support for the following bills identified in the subject advisory.

HR 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements.

Comment: AAFA strongly supports this legislation and believes it is long overdue. The Committee for the Implementation of Textile Agreements (CITA) is responsible for far reaching decisions that deeply affect most AAFA members yet its actions are almost always taken behind closed doors with insufficient public scrutiny. This lack of transparency creates a highly unpredictable environment that is often perceived as being unfair. Recently, CITA has published guidelines to introduce some predictability into its deliberations. While we applaud those limited moves as a step in the right direction, we believe they are insufficient to provide the full accountability necessary for an intergovernmental agency which such responsibilities. Moreover, CITA has at times disregarded its own published guidelines as it has im-

plemented China safeguard and short supply procedures. As a result, AAFA supports bringing CITA under the full jurisdiction of the Administrative Procedures Act.

HR 1121—A bill to repeal section 754 of the Tariff Act of 1930.

Comment: AAFA strongly supports the repeal of the Byrd Amendment. The Byrd legislation was enacted outside of the regular legislative process, by committees that do not enjoy primary jurisdiction over trade issues, and with no opportunity for public comment. Moreover, as has been found by the World Trade Organization (WTO), this provision puts the United States out of compliance with its WTO obligations. In fact, the European Union is currently assessing penalties on U.S. produced clothing in retaliation. Other countries have threatened to do the same. AAFA believes repeal of this abominable provision should be made a priority.

HR 1221, HR 3386, HR 3387, HR 3388, HR 3389, HR 3391, HR 3392, HR 3393, HR 3394, HR 3395, HR 3483, HR 3484, HR 3485, HR 3486, HR 3487, HR 3488, HR 3489, HR 3490, HR 3491—Duty suspensions with respect to various footwear articles. [Note: This does not include HR 3390, which we understand has been withdrawn.]

Comment. AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

HR 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.

Comment: AAFA strongly supports this legislation. Our association supported an earlier version of this legislation in the 108th Congress. This legislation would result in duty reductions for cotton fabrics that are already designated in short supply under various trade preference programs because these fabrics are unavailable in the United States and in the preference countries. Given that finished shirts may enter duty free using these fabrics, we believe it is also appropriate to permit the fabrics themselves to enter duty free. Thus, U.S. domestic manufacturers of shirts will be able to enjoy equal access to those same high quality fabrics that foreign based manufacturers enjoy.

HR 2589/HR 2590—Two bills to extend the temporary suspension of duty on certain filament yarns

Comment. AAFA strongly supports these provisions. AAFA was involved in the development of the original legislation and understand that the conditions that led to successful passage of the original legislation, including the fact that the yarns in question are not produced domestically, continue to exist. Thus, these provisions should be extended.

HR 1230—A bill to extend trade benefits to certain tents imported into the United States.

Comments. AAFA strongly supports this provision. This legislation relates to certain camping tents which are not made in the United States. Moreover, similar but slightly smaller tents, differentiated only by the fact that they are classified as "backpacking" tents, already enjoy duty free treatment. This provision would correct that anomaly.

In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment of such provisions may also facilitate proper findings of short supply for those programs, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

Footwear Distributors and Retailers of America
Washington, DC 20004
September 2, 2005

The Hon. E. Clay Shaw
Chairman
House Ways and Means
Subcommittee on Trade
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw,

This letter is being submitted by the Footwear Distributors and Retailers of America (FDRA) and its members in response to the Subcommittee's request for comments on Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills.

FDRA's members comprise U.S. footwear distributors and retailers that, together, account for approximately 80 percent of footwear sales at retail in the United States. Also, imports now account for 99 percent of U.S. consumption of footwear. In other words, the U.S. footwear market comprises nearly all imports; any remaining U.S. production competes on basis other than price and is not affected by the elimination of tariffs.

FDRA and its members support the elimination of tariffs on footwear via all vehicles, including through legislation, free trade agreements and the current WTO Doha Round negotiations. FDRA recognizes the Committee's established practice of considering legislation to temporarily suspend duties on products only where annual revenue losses from duty suspensions total approximately $500,000 or less. FDRA understands that revenue losses from duty suspensions under H.R. 3487 are higher, but the amount remains modest and eliminating these tariffs will benefit FDRA and its member companies and in no way affect any domestic production. Therefore, FDRA supports passage of H.R. 1221, H.R. 3386, H.R. 3387, H.R. 3388, H.R. 3389, H.R. 3391, H.R. 3392, H.R. 3393, H.R. 3394, H.R. 3395, H.R. 3483, H.R. 3484, H.R. 3485, H.R. 3486, H.R. 3487, H.R. 3488, H.R. 3489, H.R. 3490 and H.R. 3491.

Peter T. Mangione

Footwear Distributors and Retailers of America

Retailer Members

Bakers Footwear Group
Brown Shoe Company
Clarks Companies
Designer Shoe Warehouse (DSW)
Famous Footwear
FOOTACTIONUSA
Foot Locker, Inc.
Footstar, Inc.
Gap, Inc.
Genesco, Inc.
J.C. Penney Company
Meldisco
Naturalizer Retail
Payless ShoeSource
Sears, Roebuck & Company
Rack Room Shoes
Retail Ventures, Inc.
The Stride Rite Corporation
Value City
Vans, Inc.
Wal-Mart

Distributor Members

ACI
Aerogroup Int., Inc.
ASICS Tiger Corporation
ATSCO Footwear, Inc.
AZALEIA
BBC International
BCNY International Inc.
Bennett Footwear Group
Cels Enterprises
C.O. Lynch
Cole Haan
Converse
Drew Shoe Corporation
Dynasty Footwear
Elan-Polo, Inc.
E.S. Originals
Global Brand Marketing, Inc.
Green Market Services
HYI
H.H. Brown Shoe Company
Inter Pacific Corporation
Jimlar Corporation
K–Swiss, Inc.
Jones Apparel/Nine West
Laird, Ltd
LJO, Inc
Mark Tucker, Inc.
Mephisto USA
Mercury International
Nike, Inc.
Olem Shoe Corporation
Prima Group Traders, Inc.
RANNA, Inc.
Reef

Reebok International
Renaissance Imports
Right Stuff, Inc.
Salland Industries LTD
Sara Lee
SG Footwear, Inc.
Skechers USA, Inc.
Street Cars, Inc.
The Rockport Company
The Topline Corporation
Valley Lane Industries
Wolverine World Wide

EXECUTIVE COMMITTEE

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Jim Issler, H.H. Brown Shoe Company, Vice-chairman
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Melanie Owens, Wal-Mart Stores, Inc.*
Arthur Emmanuel, Wal-Mart Stores, Inc.
Debbie Kocks, Wal-Mart Stores, Inc.*
Greg Ribatt, Bennett Footwear Group
Robert Callahan, Elan-Polo, Inc.
Joey Safedy, E.S. Originals
Laurence Tarica, Jimlar Corporation
Alan Luchette, Jones Apparel/Nine West Group
Robert Cooperstein, Mercury International
William Snowden, Sr., The Topline Corporation
LuAnne Via, Sears, Roebuck and Company
Steve Duffy, Wolverine World Wide
Cecil McDermott, J.C. Penney
Rick Thornton, The Stride Rite Corporation
Matt Rubel, Payless ShoeSource
Pamela Salkovitz, The Stride Rite Corporation*
Jeff Shepard, Meldisco

EX–OFFICIO

Robert Campbell, BBC International
Irving Wiseman, Mercury International
Joseph Russell, Elan-Polo, Inc., Chairman
*Alternate member

Payless ShoeSouce, Inc.
Topeka, Kansas 66601
September 1, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

We are submitting these comments in response to the Subcommittee=s request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, we wish to express our support for the following bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
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H.R. 3391—To suspend temporarily the duty on certain athletic footwear.
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H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear

H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Payless ShoeSource, Inc. is the Western Hemisphere's largest family footwear retailer, with over 4,600 stores across the United States, Canada, Central America and the Caribbean. The vast majority of those stores are located in the U.S. The Company employs over 27,000 associates worldwide.

Over the last 20 years, the production of footwear in the United States has dwindled to practically nothing. The footwear manufacturers still in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes.

Most footwear duties are therefore out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The above bills would eliminate the duties on several types of footwear but they have been carefully drafted so as not to affect the few remaining types which are still manufactured in the United States.

Duty-free entry of footwear would benefit the U.S. customer. The movement towards duty-free footwear would also be consistent with the overall direction the United States has taken in recently negotiated free trade agreements in Latin America.

Negotiations of the DR–CAFTA and the last miscellaneous tariff bill both served to engage the remaining domestic footwear interests in a discussion of exactly which types of shoes are still made in this country. As a result of those negotiations, all but 17 of the 115 shoe classifications codified under the Harmonized Tariff Schedule will be able to enter the U.S. duty-free from the Caribbean Basin countries and the Central American nations which become signatories to the DR–CAFTA.

To the extent any domestic footwear production still requires duty protection, that field has been clearly drawn to include only 17 shoe types. To avoid controversy, those 17 types are unaffected by the above bills.

As the members of the Subcommittee are aware, tariff bills of this nature contain explicit references to 8-digit HTS numbers. The text of the bills, though, describes shoes types which are identifiable at the more specific 10-digit HTS level. Thus, the fiscal impact of these bills is limited to the more narrowly described footwear types and is of a much lower magnitude than might otherwise be suggested by an analysis at the 8-digit level.

In summary, eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months. Also, the bills are designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me or Nicole Bivens Collinson of Sandler, Travis & Rosenberg, P.A., if you have any questions on these provisions or require additional information.

Sincerely,

Michael J. Massey
Senior Vice President
General Counsel and Secretary

Retail Industry Leaders Association
Arlington, Virginia 22209
September 2, 2005

The Honorable E. Clay Shaw
Chairman
House Ways & Means Trade Subcommittee
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Retail Industry Leaders Association (RILA), we welcome the opportunity to submit comments on technical corrections to U.S. trade laws and mis-

cellaneous duty suspension proposals. There are several provisions that RILA strongly supports or opposes in the list of potential bills to be included in the Miscellaneous Trade Bill.

By way of background, RILA is an alliance of the world's most successful and innovative retailer and supplier companies—the leaders of the retail industry. RILA members represent almost $1.4 trillion in sales annually and operate more than 100,000 stores, manufacturing facilities and distribution centers nationwide. Its member retailers and suppliers have facilities in all 50 states, as well as internationally, and employ millions of workers domestically and worldwide. Through RILA, leaders in the critical disciplines of the retail industry work together to improve their businesses and the industry as a whole.

H.R. 1121—A bill to repeal section 754 of the Tariff Act of 1930

RILA strongly supports the inclusion of H.R. 1121 in the Miscellaneous Trade and Tariff bill. Repeal of the "Byrd Amendment" is a top priority for RILA and its members. The Byrd Amendment annually funnels money collected from antidumping and countervailing duty cases directly to companies that file petitions. These payouts create a perverse incentive for companies to file petitions and add an increasing number of product categories to those petitions in hopes of collecting a financial windfall. In addition, the presence of the Byrd Amendment impedes the settlement of trade cases because of the financial incentive given to the petitioners.

Since enactment of the amendment, the number of antidumping petitions filed on consumer ready products has increased. As a result of the amendment, more than $1 billion has been distributed to domestic petitioners with no strings attached and with no measurable increase to competitiveness. Repeal would not affect the operation of antidumping and countervailing duty laws, but would remove the perverse incentive to file cases and would keep revenue collected in the government treasury to be spent in a more appropriate way. Congress should support "fair-trade" that creates a level playing field for everyone, not just import-sensitive domestic industries.

In January 2003, the World Trade Organization Appellate Body affirmed an earlier ruling that the "Byrd Amendment" was a violation of U.S. WTO obligations. The U.S. should live up to its international obligations. The U.S. is now facing retaliatory tariffs from several countries on a wide range of products for not repealing the Byrd Amendment. In a time when export trade is so important to our economy, unnecessary duties stifle exports and cause widespread layoffs while corporate subsidies do nothing to enhance the competitiveness of domestic industries.

Consumers are the real losers in this process. By encouraging protectionist behavior, the Byrd Amendment drives up prices for American consumer by encouraging trade defense actions that can increase the cost of consumer goods. The taxpayer funds distributed as a result of the law could be better used for other purposes.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture

RILA strongly opposes this bill. Such a labeling provision is unnecessary and adds additional burdens and costs to importers and retailers. Under section 304 of the Tariff Act of 1930, imported home furniture is already required to have a permanent country of origin marking. We do not believe an additional labeling requirement is useful or appropriate.

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RILA supports the following duty suspension bills:

H.R. 3308—A bill to suspend temporarily the duty on erasers.

H.R. 3309—A bill to suspend temporarily the duty on nail clippers.

H.R. 3310—A bill to suspend temporarily the duty on artificial flowers.

H.R. 3311—A bill to suspend temporarily the duty on electric pencil sharpeners.

We believe that these products are not made in the United States in commercial quantities sufficient to satisfy RILA members and their customers. As well, the duty on these products averages less than 5%.

RILA also supports the following footwear duty suspension bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.

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H.R. 3387—A bill to suspend temporarily the duty on certain work footwear.

H.R. 3388—A bill to suspend temporarily the duty on certain women's footwear.

H.R. 3389—A bill to suspend temporarily the duty on certain footwear for girls.

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H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
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H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Production of footwear in the United States has significantly declined over the last 20 years. Footwear manufacturers in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes

As a result, most of the current footwear duties are out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The footwear duty suspension bills being considered would eliminate the duties on several types of footwear, but will not affect the few remaining sensitive footwear categories which are still produced in the United States.

Eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

Conclusion

Thank you for the opportunity to submit comments on the Miscellaneous Trade and Tariff bill. If you have any questions, please contact Lori Denham, RILA's Senior Vice President for Policy and Planning or Jonathan Gold, RILA's Vice President Global Supply Chain Policy.

Sincerely,

Sandra L. Kennedy
President

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member,
Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its **support** for the following bills:

H.R. 3308—To suspend temporarily the duty on erasers.
H.R. 3309—To suspend temporarily the duty on nail clippers.
H.R. 3310—To suspend temporarily the duty on artificial flowers.

H.R. 3311—To suspend temporarily the duty on electrically operated pencil sharpeners.
H.R. 2477—To suspend, temporarily the duty on bicycle speedometers.
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H.R. 2821—To suspend temporarily the duty on certain synthetic basketballs.
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H.R. 3112—To suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
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H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.—It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman
Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20215

Dear Chairman Shaw:

On behalf of the American Apparel and Footwear Association—the national trade association of the apparel and footwear industries, and their suppliers—I am writing to express strong support for the following bills identified in the subject advisory.

HR 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements.

Comment: AAFA strongly supports this legislation and believes it is long overdue. The Committee for the Implementation of Textile Agreements (CITA) is responsible for far reaching decisions that deeply affect most AAFA members yet its actions are almost always taken behind closed doors with insufficient public scrutiny. This lack of transparency creates a highly unpredictable environment that is often perceived as being unfair. Recently, CITA has published guidelines to introduce some predictability into its deliberations. While we applaud those limited moves as a step in the right direction, we believe they are insufficient to provide the full accountability necessary for an intergovernmental agency which such responsibilities. Moreover, CITA has at times disregarded its own published guidelines as it has implemented China safeguard and short supply procedures. As a result, AAFA supports bringing CITA under the full jurisdiction of the Administrative Procedures Act.

HR 1121—A bill to repeal section 754 of the Tariff Act of 1930.

Comment: AAFA strongly supports the repeal of the Byrd Amendment. The Byrd legislation was enacted outside of the regular legislative process, by committees that do not enjoy primary jurisdiction over trade issues, and with no opportunity for public comment. Moreover, as has been found by the World Trade Organization (WTO), this provision puts the United States out of compliance with its WTO obligations. In fact, the European Union is currently assessing penalties on U.S. produced clothing in retaliation. Other countries have threatened to do the same. AAFA believes repeal of this abominable provision should be made a priority.

HR 1221, HR 3386, HR 3387, HR 3388, HR 3389, HR 3391, HR 3392, HR 3393, HR 3394, HR 3395, HR 3483, HR 3484, HR 3485, HR 3486, HR 3487, HR 3488, HR 3489, HR 3490, HR 3491—Duty suspensions with respect to various footwear articles. [Note: This does not include HR 3390, which we understand has been withdrawn.]

Comment. AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

HR 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.

Comment: AAFA strongly supports this legislation. Our association supported an earlier version of this legislation in the 108th Congress. This legislation would result in duty reductions for cotton fabrics that are already designated in short supply under various trade preference programs because these fabrics are unavailable in the United States and in the preference countries. Given that finished shirts may enter duty free using these fabrics, we believe it is also appropriate to permit the fabrics themselves to enter duty free. Thus, U.S. domestic manufacturers of shirts will be able to enjoy equal access to those same high quality fabrics that foreign based manufacturers enjoy.

HR 2589/HR 2590—Two bills to extend the temporary suspension of duty on certain filament yarns

Comment. AAFA strongly supports these provisions. AAFA was involved in the development of the original legislation and understand that the conditions that led to successful passage of the original legislation, including the fact that the yarns in question are not produced domestically, continue to exist. Thus, these provisions should be extended.

HR 1230—A bill to extend trade benefits to certain tents imported into the United States.

Comments. AAFA strongly supports this provision. This legislation relates to certain camping tents which are not made in the United States. Moreover, similar but slightly smaller tents, differentiated only by the fact that they are classified as "backpacking" tents, already enjoy duty free treatment. This provision would correct that anomaly.

In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment of such provisions may facilitate proper findings of short supply for those programs, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

Footwear Distributors and Retailers of America
Washington, DC 20004
September 2, 2005

The Hon. E. Clay Shaw
Chairman
House Ways and Means
Subcommittee on Trade
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw,

This letter is being submitted by the Footwear Distributors and Retailers of America (FDRA) and its members in response to the Subcommittee's request for comments on *Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills.*

FDRA's members comprise U.S. footwear distributors and retailers that, together, account for approximately 80 percent of footwear sales at retail in the United States. Also, imports now account for 99 percent of U.S. consumption of footwear. In other words, the U.S. footwear market comprises nearly all imports; any remaining U.S. production competes on basis other than price and is not affected by the elimination of tariffs.

FDRA and its members support the elimination of tariffs on footwear via all vehicles, including through legislation, free trade agreements and the current WTO Doha Round negotiations. FDRA recognizes the Committee's established practice of considering legislation to temporarily suspend duties on products only where annual revenue losses from duty suspensions total approximately $500,000 or less. FDRA understands that revenue losses from duty suspensions under H.R. 3487 are higher, but the amount remains modest and eliminating these tariffs will benefit FDRA and its member companies and in no way affect any domestic production. Therefore, FDRA supports passage of H.R. 1221, H.R. 3386, H.R. 3387, H.R. 3388, H.R. 3389, H.R. 3391, H.R. 3392, H.R. 3393, H.R. 3394, H.R. 3395, H.R. 3483, H.R. 3484, H.R. 3485, H.R. 3486, H.R. 3487, H.R. 3488, H.R. 3489, H.R. 3490 and H.R. 3491.

Peter T. Mangione

Footwear Distributors and Retailers of America

Retailer Members

Bakers Footwear Group
Brown Shoe Company
Clarks Companies
Designer Shoe Warehouse (DSW)
Famous Footwear
FOOTACTIONUSA
Foot Locker, Inc.
Footstar, Inc.
Gap, Inc.

Genesco, Inc.
J.C. Penney Company
Meldisco
Naturalizer Retail
Payless ShoeSource
Sears, Roebuck & Company
Rack Room Shoes
Retail Ventures, Inc.
The Stride Rite Corporation
Value City
Vans, Inc.
Wal-Mart

Distributor Members

ACI
Aerogroup Int., Inc.
ASICS Tiger Corporation
ATSCO Footwear, Inc.
AZALEIA
BBC International
BCNY International Inc.
Bennett Footwear Group
Cels Enterprises
C.O. Lynch
Cole Haan
Converse
Drew Shoe Corporation
Dynasty Footwear
Elan-Polo, Inc.
E.S. Originals
Global Brand Marketing, Inc.
Green Market Services
HYI
H.H. Brown Shoe Company
Inter Pacific Corporation
Jimlar Corporation
K–Swiss, Inc.
Jones Apparel/Nine West
Laird, Ltd
LJO, Inc
Mark Tucker, Inc.
Mephisto USA
Mercury International
Nike, Inc.
Olem Shoe Corporation
Prima Group Traders, Inc.
RANNA, Inc.
Reef
Reebok International
Renaissance Imports
Right Stuff, Inc.
Salland Industries LTD
Sara Lee
SG Footwear, Inc.
Skechers USA, Inc.
Street Cars, Inc.
The Rockport Company
The Topline Corporation
Valley Lane Industries
Wolverine World Wide

EXECUTIVE COMMITTEE

Ron Fromm, Brown Shoe Company, Chairman
Jim Issler, H.H. Brown Shoe Company, Vice-chairman
Killick Datta, Global Brand Marketing, Inc., Treasurer
Rick Mina, Foot Locker, Inc
Hal Pennington, Genesco, Inc.
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Debbie Ferree, DSW
Melanie Owens, Wal-Mart Stores, Inc.*
Arthur Emmanuel, Wal-Mart Stores, Inc.
Debbie Kocks, Wal-Mart Stores, Inc.*
Greg Ribatt, Bennett Footwear Group
Robert Callahan, Elan-Polo, Inc.
Joey Safedy, E.S. Originals
Laurence Tarica, Jimlar Corporation
Alan Luchette, Jones Apparel/Nine West Group
Robert Cooperstein, Mercury International
William Snowden, Sr., The Topline Corporation
LuAnne Via, Sears, Roebuck and Company
Steve Duffy, Wolverine World Wide
Cecil McDermott, J.C. Penney
Rick Thornton, The Stride Rite Corporation
Matt Rubel, Payless ShoeSource
Pamela Salkovitz, The Stride Rite Corporation*
Jeff Shepard, Meldisco

EX–OFFICIO

Robert Campbell, BBC International
Irving Wiseman, Mercury International
Joseph Russell, Elan-Polo, Inc., Chairman
*Alternate member

Payless ShoeSouce, Inc.
Topeka, Kansas 66601
September 1, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

We are submitting these comments in response to the Subcommittee=s request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, we wish to express our **support** for the following bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
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H.R. 3389—To suspend temporarily the duty on certain footwear for girls.
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H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Payless ShoeSource, Inc. is the Western Hemisphere's largest family footwear retailer, with over 4,600 stores across the United States, Canada, Central America and the Caribbean. The vast majority of those stores are located in the U.S. The Company employs over 27,000 associates worldwide.

Over the last 20 years, the production of footwear in the United States has dwindled to practically nothing. The footwear manufacturers still in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes.

Most footwear duties are therefore out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The above bills would eliminate the duties on several types of footwear but they have been carefully drafted so as not to affect the few remaining types which are still manufactured in the United States.

Duty-free entry of footwear would benefit the U.S. customer. The movement towards duty-free footwear would also be consistent with the overall direction the United States has taken in recently negotiated free trade agreements in Latin America.

Negotiations of the DR–CAFTA and the last miscellaneous tariff bill both served to engage the remaining domestic footwear interests in a discussion of exactly which types of shoes are still made in this country. As a result of those negotiations, all but 17 of the 115 shoe classifications codified under the Harmonized Tariff Schedule will be able to enter the U.S. duty-free from the Caribbean Basin countries and the Central American nations which become signatories to the DR–CAFTA.

To the extent any domestic footwear production still requires duty protection, that field has been clearly drawn to include only 17 shoe types. To avoid controversy, those 17 types are unaffected by the above bills.

As the members of the Subcommittee are aware, tariff bills of this nature contain explicit references to 8-digit HTS numbers. The text of the bills, though, describes shoes types which are identifiable at the more specific 10-digit HTS level. Thus, the fiscal impact of these bills is limited to the more narrowly described footwear types and is of a much lower magnitude than might otherwise be suggested by an analysis at the 8-digit level.

In summary, eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months. Also, the bills are designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me or Nicole Bivens Collinson of Sandler, Travis & Rosenberg, P.A., if you have any questions on these provisions or require additional information.

Sincerely,

Michael J. Massey
Senior Vice President
General Counsel and Secretary

Retail Industry Leaders Association
Arlington, Virginia 22209
September 2, 2005

The Honorable E. Clay Shaw
Chairman
House Ways & Means Trade Subcommittee
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Retail Industry Leaders Association (RILA), we welcome the opportunity to submit comments on technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. There are several provisions that RILA strongly supports or opposes in the list of potential bills to be included in the Miscellaneous Trade Bill.

By way of background, RILA is an alliance of the world's most successful and innovative retailer and supplier companies—the leaders of the retail industry. RILA members represent almost $1.4 trillion in sales annually and operate more than 100,000 stores, manufacturing facilities and distribution centers nationwide. Its member retailers and suppliers have facilities in all 50 states, as well as internationally, and employ millions of workers domestically and worldwide. Through RILA, leaders in the critical disciplines of the retail industry work together to improve their businesses and the industry as a whole.

H.R. 1121—A bill to repeal section 754 of the Tariff Act of 1930

RILA strongly supports the inclusion of H.R. 1121 in the Miscellaneous Trade and Tariff bill. Repeal of the "Byrd Amendment" is a top priority for RILA and its members. The Byrd Amendment annually funnels money collected from antidumping and countervailing duty cases directly to companies that file petitions. These payouts create a perverse incentive for companies to file petitions and add an increasing number of product categories to those petitions in hopes of collecting a financial windfall. In addition, the presence of the Byrd Amendment impedes the settlement of trade cases because of the financial incentive given to the petitioners.

Since enactment of the amendment, the number of antidumping petitions filed on consumer ready products has increased. As a result of the amendment, more than $1 billion has been distributed to domestic petitioners with no strings attached and with no measurable increase to competitiveness. Repeal would not affect the operation of antidumping and countervailing duty laws, but would remove the perverse incentive to file cases and would keep revenue collected in the government treasury to be spent in a more appropriate way. Congress should support "fair-trade" that

creates a level playing field for everyone, not just import-sensitive domestic industries.

In January 2003, the World Trade Organization Appellate Body affirmed an earlier ruling that the "Byrd Amendment" was a violation of U.S. WTO obligations. The U.S. should live up to its international obligations. The U.S. is now facing retaliatory tariffs from several countries on a wide range of products for not repealing the Byrd Amendment. In a time when export trade is so important to our economy, unnecessary duties stifle exports and cause widespread layoffs while corporate subsidies do nothing to enhance the competitiveness of domestic industries.

Consumers are the real losers in this process. By encouraging protectionist behavior, the Byrd Amendment drives up prices for American consumer by encouraging trade defense actions that can increase the cost of consumer goods. The taxpayer funds distributed as a result of the law could be better used for other purposes.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture

RILA strongly opposes this bill. Such a labeling provision is unnecessary and adds additional burdens and costs to importers and retailers. Under section 304 of the Tariff Act of 1930, imported home furniture is already required to have a permanent country of origin marking. We do not believe an additional labeling requirement is useful or appropriate.

Duty Suspension Bills

RILA supports the following duty suspension bills:

H.R. 3308—A bill to suspend temporarily the duty on erasers.
H.R. 3309—A bill to suspend temporarily the duty on nail clippers.
H.R. 3310—A bill to suspend temporarily the duty on artificial flowers.
H.R. 3311—A bill to suspend temporarily the duty on electric pencil sharpeners.

We believe that these products are not made in the United States in commercial quantities sufficient to satisfy RILA members and their customers. As well, the duty on these products averages less than 5%.

RILA also supports the following footwear duty suspension bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3388—A bill to suspend temporarily the duty on certain women's footwear.
H.R. 3389—A bill to suspend temporarily the duty on certain footwear for girls.
H.R. 3390—A bill to suspend temporarily the duty on certain protective footwear.
H.R. 3391—A bill to suspend temporarily the duty on certain athletic footwear.
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Production of footwear in the United States has significantly declined over the last 20 years. Footwear manufacturers in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes

As a result, most of the current footwear duties are out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The footwear duty suspension bills being considered would eliminate the duties on several types of footwear, but will not affect the few remaining sensitive footwear categories which are still produced in the United States.

Eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow

for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

Conclusion

Thank you for the opportunity to submit comments on the Miscellaneous Trade and Tariff bill. If you have any questions, please contact Lori Denham, RILA's Senior Vice President for Policy and Planning or Jonathan Gold, RILA's Vice President Global Supply Chain Policy.

Sincerely,

Sandra L. Kennedy
President

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member,
Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

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H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

American Apparel and Footwear Association
Arlington, Virginia 22209
September 2, 2005

The Hon. E. Clay Shaw, Jr. (R–FL)
Chairman
Subcommittee on Trade of the Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20215

Dear Chairman Shaw:

On behalf of the American Apparel and Footwear Association—the national trade association of the apparel and footwear industries, and their suppliers—I am writing to express strong support for the following bills identified in the subject advisory.

HR 3416—A bill to prohibit the application of the foreign affairs exemption to the rule making requirements under the Administrative Procedure Act with respect to actions of the Committee for the Implementation of Textile Agreements.

Comment: AAFA strongly supports this legislation and believes it is long overdue. The Committee for the Implementation of Textile Agreements (CITA) is responsible for far reaching decisions that deeply affect most AAFA members yet its actions are almost always taken behind closed doors with insufficient public scrutiny. This lack of transparency creates a highly unpredictable environment that is often perceived as being unfair. Recently, CITA has published guidelines to introduce some predictability into its deliberations. While we applaud those limited moves as a step in the right direction, we believe they are insufficient to provide the full accountability necessary for an intergovernmental agency which such responsibilities. Moreover, CITA has at times disregarded its own published guidelines as it has im-

plemented China safeguard and short supply procedures. As a result, AAFA supports bringing CITA under the full jurisdiction of the Administrative Procedures Act.

HR 1121—A bill to repeal section 754 of the Tariff Act of 1930.

Comment: AAFA strongly supports the repeal of the Byrd Amendment. The Byrd legislation was enacted outside of the regular legislative process, by committees that do not enjoy primary jurisdiction over trade issues, and with no opportunity for public comment. Moreover, as has been found by the World Trade Organization (WTO), this provision puts the United States out of compliance with its WTO obligations. In fact, the European Union is currently assessing penalties on U.S. produced clothing in retaliation. Other countries have threatened to do the same. AAFA believes repeal of this abominable provision should be made a priority.

HR 1221, HR 3386, HR 3387, HR 3388, HR 3389, HR 3391, HR 3392, HR 3393, HR 3394, HR 3395, HR 3483, HR 3484, HR 3485, HR 3486, HR 3487, HR 3488, HR 3489, HR 3490, HR 3491—Duty suspensions with respect to various footwear articles. [Note: This does not include HR 3390, which we understand has been withdrawn.]

Comment. AAFA strongly supports these provisions. We are not aware of any domestic production in these footwear HTS lines. Moreover, none of these bills covers the 17 footwear items that the rubber and plastic footwear industry association identify as still being manufactured in the United States.

HR 1945—A bill to provide temporary duty reductions for certain cotton fabrics, and for other purposes.

Comment: AAFA strongly supports this legislation. Our association supported an earlier version of this legislation in the 108th Congress. This legislation would result in duty reductions for cotton fabrics that are already designated in short supply under various trade preference programs because these fabrics are unavailable in the United States and in the preference countries. Given that finished shirts may enter duty free using these fabrics, we believe it is also appropriate to permit the fabrics themselves to enter duty free. Thus, U.S. domestic manufacturers of shirts will be able to enjoy equal access to those same high quality fabrics that foreign based manufacturers enjoy.

HR 2589/HR 2590—Two bills to extend the temporary suspension of duty on certain filament yarns

Comment. AAFA strongly supports these provisions. AAFA was involved in the development of the original legislation and understand that the conditions that led to successful passage of the original legislation, including the fact that the yarns in question are not produced domestically, continue to exist. Thus, these provisions should be extended.

HR 1230—A bill to extend trade benefits to certain tents imported into the United States.

Comments. AAFA strongly supports this provision. This legislation relates to certain camping tents which are not made in the United States. Moreover, similar but slightly smaller tents, differentiated only by the fact that they are classified as "backpacking" tents, already enjoy duty free treatment. This provision would correct that anomaly.

In addition, we note the inclusion of a number of other provisions relating to various yarns, fabrics, and fibers. While we are not taking a position on any of these provisions we would suggest that reduction in duties in those articles is more likely to sustain U.S. jobs by providing U.S. manufacturers access to foreign inputs when those inputs are not available in the United States. Moreover, inasmuch as many free trade agreements now contain yarn and/or fiber forward principles, enactment of such provisions may also facilitate proper findings of short supply for those programs, which would also support U.S. jobs dependent on those production-sharing relationships.

Please contact me should you require additional information on these or other provisions.

Respectfully submitted,

Stephen Lamar
Sr. Vice President

Footwear Distributors and Retailers of America
Washington, DC 20004
September 2, 2005

The Hon. E. Clay Shaw
Chairman
House Ways and Means
Subcommittee on Trade
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw,

This letter is being submitted by the Footwear Distributors and Retailers of America (FDRA) and its members in response to the Subcommittee's request for comments on Technical Corrections to U.S. Trade Laws and Miscellaneous Duty Suspension Bills.

FDRA's members comprise U.S. footwear distributors and retailers that, together, account for approximately 80 percent of footwear sales at retail in the United States. Also, imports now account for 99 percent of U.S. consumption of footwear. In other words, the U.S. footwear market comprises nearly all imports; any remaining U.S. production competes on basis other than price and is not affected by the elimination of tariffs.

FDRA and its members support the elimination of tariffs on footwear via all vehicles, including through legislation, free trade agreements and the current WTO Doha Round negotiations. FDRA recognizes the Committee's established practice of considering legislation to temporarily suspend duties on products only where annual revenue losses from duty suspensions total approximately $500,000 or less. FDRA understands that revenue losses from duty suspensions under H.R. 3487 are higher, but the amount remains modest and eliminating these tariffs will benefit FDRA and its member companies and in no way affect any domestic production. Therefore, FDRA supports passage of H.R. 1221, H.R. 3386, H.R. 3387, H.R. 3388, H.R. 3389, H.R. 3391, H.R. 3392, H.R. 3393, H.R. 3394, H.R. 3395, H.R. 3483, H.R. 3484, H.R. 3485, H.R. 3486, H.R. 3487, H.R. 3488, H.R. 3489, H.R. 3490 and H.R. 3491.

Peter T. Mangione

Footwear Distributors and Retailers of America

Retailer Members

Bakers Footwear Group
Brown Shoe Company
Clarks Companies
Designer Shoe Warehouse (DSW)
Famous Footwear
FOOTACTIONUSA
Foot Locker, Inc.
Footstar, Inc.
Gap, Inc.
Genesco, Inc.
J.C. Penney Company
Meldisco
Naturalizer Retail
Payless ShoeSource
Sears, Roebuck & Company
Rack Room Shoes
Retail Ventures, Inc.
The Stride Rite Corporation
Value City
Vans, Inc.
Wal-Mart

Distributor Members

ACI
Aerogroup Int., Inc.
ASICS Tiger Corporation
ATSCO Footwear, Inc.
AZALEIA
BBC International
BCNY International Inc.
Bennett Footwear Group
Cels Enterprises
C.O. Lynch
Cole Haan
Converse
Drew Shoe Corporation
Dynasty Footwear
Elan-Polo, Inc.
E.S. Originals
Global Brand Marketing, Inc.
Green Market Services
HYI
H.H. Brown Shoe Company
Inter Pacific Corporation
Jimlar Corporation
K–Swiss, Inc.
Jones Apparel/Nine West
Laird, Ltd
LJO, Inc
Mark Tucker, Inc.
Mephisto USA
Mercury International
Nike, Inc.
Olem Shoe Corporation
Prima Group Traders, Inc.
RANNA, Inc.
Reef

Reebok International
Renaissance Imports
Right Stuff, Inc.
Salland Industries LTD
Sara Lee
SG Footwear, Inc.
Skechers USA, Inc.
Street Cars, Inc.
The Rockport Company
The Topline Corporation
Valley Lane Industries
Wolverine World Wide

EXECUTIVE COMMITTEE

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Joey Safedy, E.S. Originals
Laurence Tarica, Jimlar Corporation
Alan Luchette, Jones Apparel/Nine West Group
Robert Cooperstein, Mercury International
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LuAnne Via, Sears, Roebuck and Company
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Cecil McDermott, J.C. Penney
Rick Thornton, The Stride Rite Corporation
Matt Rubel, Payless ShoeSource
Pamela Salkovitz, The Stride Rite Corporation*
Jeff Shepard, Meldisco

EX–OFFICIO

Robert Campbell, BBC International
Irving Wiseman, Mercury International
Joseph Russell, Elan-Polo, Inc., Chairman
*Alternate member

Payless ShoeSouce, Inc.
Topeka, Kansas 66601
September 1, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member, Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

We are submitting these comments in response to the Subcommittee=s request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, we wish to express our support for the following bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
H.R. 3389—To suspend temporarily the duty on certain footwear for girls.
H.R. 3391—To suspend temporarily the duty on certain athletic footwear.
H.R. 3392—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—To suspend temporarily the duty on certain work footwear.
H.R. 3394—To suspend temporarily the duty on certain work footwear.
H.R. 3395—To suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear

H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Payless ShoeSource, Inc. is the Western Hemisphere's largest family footwear retailer, with over 4,600 stores across the United States, Canada, Central America and the Caribbean. The vast majority of those stores are located in the U.S. The Company employs over 27,000 associates worldwide.

Over the last 20 years, the production of footwear in the United States has dwindled to practically nothing. The footwear manufacturers still in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes.

Most footwear duties are therefore out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The above bills would eliminate the duties on several types of footwear but they have been carefully drafted so as not to affect the few remaining types which are still manufactured in the United States.

Duty-free entry of footwear would benefit the U.S. customer. The movement towards duty-free footwear would also be consistent with the overall direction the United States has taken in recently negotiated free trade agreements in Latin America.

Negotiations of the DR–CAFTA and the last miscellaneous tariff bill both served to engage the remaining domestic footwear interests in a discussion of exactly which types of shoes are still made in this country. As a result of those negotiations, all but 17 of the 115 shoe classifications codified under the Harmonized Tariff Schedule will be able to enter the U.S. duty-free from the Caribbean Basin countries and the Central American nations which become signatories to the DR–CAFTA.

To the extent any domestic footwear production still requires duty protection, that field has been clearly drawn to include only 17 shoe types. To avoid controversy, those 17 types are unaffected by the above bills.

As the members of the Subcommittee are aware, tariff bills of this nature contain explicit references to 8-digit HTS numbers. The text of the bills, though, describes shoes types which are identifiable at the more specific 10-digit HTS level. Thus, the fiscal impact of these bills is limited to the more narrowly described footwear types and is of a much lower magnitude than might otherwise be suggested by an analysis at the 8-digit level.

In summary, eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months. Also, the bills are designed as a temporary suspension should any U.S. manufacturing operation become established.

Thank you very much for your consideration of this matter, and please feel free to contact me or Nicole Bivens Collinson of Sandler, Travis & Rosenberg, P.A., if you have any questions on these provisions or require additional information.

Sincerely,

Michael J. Massey
Senior Vice President
General Counsel and Secretary

Retail Industry Leaders Association
Arlington, Virginia 22209
September 2, 2005

The Honorable E. Clay Shaw
Chairman
House Ways & Means Trade Subcommittee
1104 Longworth House Office Building
Washington, DC 20515

Dear Chairman Shaw:

On behalf of the Retail Industry Leaders Association (RILA), we welcome the opportunity to submit comments on technical corrections to U.S. trade laws and mis-

cellaneous duty suspension proposals. There are several provisions that RILA strongly supports or opposes in the list of potential bills to be included in the Miscellaneous Trade Bill.

By way of background, RILA is an alliance of the world's most successful and innovative retailer and supplier companies—the leaders of the retail industry. RILA members represent almost $1.4 trillion in sales annually and operate more than 100,000 stores, manufacturing facilities and distribution centers nationwide. Its member retailers and suppliers have facilities in all 50 states, as well as internationally, and employ millions of workers domestically and worldwide. Through RILA, leaders in the critical disciplines of the retail industry work together to improve their businesses and the industry as a whole.

H.R. 1121—A bill to repeal section 754 of the Tariff Act of 1930

RILA strongly supports the inclusion of H.R. 1121 in the Miscellaneous Trade and Tariff bill. Repeal of the "Byrd Amendment" is a top priority for RILA and its members. The Byrd Amendment annually funnels money collected from antidumping and countervailing duty cases directly to companies that file petitions. These payouts create a perverse incentive for companies to file petitions and add an increasing number of product categories to those petitions in hopes of collecting a financial windfall. In addition, the presence of the Byrd Amendment impedes the settlement of trade cases because of the financial incentive given to the petitioners.

Since enactment of the amendment, the number of antidumping petitions filed on consumer ready products has increased. As a result of the amendment, more than $1 billion has been distributed to domestic petitioners with no strings attached and with no measurable increase to competitiveness. Repeal would not affect the operation of antidumping and countervailing duty laws, but would remove the perverse incentive to file cases and would keep revenue collected in the government treasury to be spent in a more appropriate way. Congress should support "fair-trade" that creates a level playing field for everyone, not just import-sensitive domestic industries.

In January 2003, the World Trade Organization Appellate Body affirmed an earlier ruling that the "Byrd Amendment" was a violation of U.S. WTO obligations. The U.S. should live up to its international obligations. The U.S. is now facing retaliatory tariffs from several countries on a wide range of products for not repealing the Byrd Amendment. In a time when export trade is so important to our economy, unnecessary duties stifle exports and cause widespread layoffs while corporate subsidies do nothing to enhance the competitiveness of domestic industries.

Consumers are the real losers in this process. By encouraging protectionist behavior, the Byrd Amendment drives up prices for American consumer by encouraging trade defense actions that can increase the cost of consumer goods. The taxpayer funds distributed as a result of the law could be better used for other purposes.

H.R. 445—A bill to amend section 304 of the Tariff Act of 1930 with respect to the marking of imported home furniture

RILA strongly opposes this bill. Such a labeling provision is unnecessary and adds additional burdens and costs to importers and retailers. Under section 304 of the Tariff Act of 1930, imported home furniture is already required to have a permanent country of origin marking. We do not believe an additional labeling requirement is useful or appropriate.

Duty Suspension Bills

RILA supports the following duty suspension bills:

H.R. 3308—A bill to suspend temporarily the duty on erasers.

H.R. 3309—A bill to suspend temporarily the duty on nail clippers.

H.R. 3310—A bill to suspend temporarily the duty on artificial flowers.

H.R. 3311—A bill to suspend temporarily the duty on electric pencil sharpeners.

We believe that these products are not made in the United States in commercial quantities sufficient to satisfy RILA members and their customers. As well, the duty on these products averages less than 5%.

RILA also supports the following footwear duty suspension bills:

H.R. 1221—To suspend the duty on certain rubber or plastic footwear.

H.R. 3386—A bill to suspend temporarily the duty on certain footwear with open toes or heels.

H.R. 3387—A bill to suspend temporarily the duty on certain work footwear.

H.R. 3388—A bill to suspend temporarily the duty on certain women's footwear.

H.R. 3389—A bill to suspend temporarily the duty on certain footwear for girls.

H.R. 3390—A bill to suspend temporarily the duty on certain protective footwear.

H.R. 3391—A bill to suspend temporarily the duty on certain athletic footwear.
H.R. 3392—A bill to suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3393—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3394—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3395—A bill to suspend temporarily the duty on certain work footwear.
H.R. 3483—To suspend temporarily the duty on certain footwear.
H.R. 3484—To suspend temporarily the duty on certain athletic footwear.
H.R. 3485—To suspend temporarily the duty on certain work footwear.
H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

Production of footwear in the United States has significantly declined over the last 20 years. Footwear manufacturers in the U.S. generally produce either specialized types of rubber or leather products or high-end athletic shoes

As a result, most of the current footwear duties are out-dated. They do not protect any U.S. industry but only serve to increase the purchase price of most footwear paid by the U.S. consumer. The footwear duty suspension bills being considered would eliminate the duties on several types of footwear, but will not affect the few remaining sensitive footwear categories which are still produced in the United States.

Eliminating U.S. duties on those footwear types which are no longer produced in the U.S. would generate a significant savings for the U.S. consumer, would allow for increased productivity of U.S. shoe retailers and would not harm the few remaining domestic shoe producers.

Conclusion

Thank you for the opportunity to submit comments on the Miscellaneous Trade and Tariff bill. If you have any questions, please contact Lori Denham, RILA's Senior Vice President for Policy and Planning or Jonathan Gold, RILA's Vice President Global Supply Chain Policy.

Sincerely,

Sandra L. Kennedy
President

Wal-Mart Stores, Inc.
Washington, DC 20004–1601
August 30, 2005

The Honorable Clay Shaw
Chairman, Subcommittee on Trade
Committee on Ways and Means
1104 Longworth House Office Building
Washington, D.C. 20515

The Honorable Ben Cardin
Ranking Member,
Subcommittee on Trade
Committee on Ways and Means
1106 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Shaw and Ranking Member Cardin:

On behalf of Wal-Mart Stores, Inc., I am writing to submit these comments in response to the Subcommittee's request for written comments from parties interested in technical corrections to U.S. trade laws and miscellaneous duty suspension proposals. Specifically, our company wishes to express its **support** for the following bills:

H.R. 3308—To suspend temporarily the duty on erasers.
H.R. 3309—To suspend temporarily the duty on nail clippers.
H.R. 3310—To suspend temporarily the duty on artificial flowers.

H.R. 3311—To suspend temporarily the duty on electrically operated pencil sharpeners.
H.R. 2477—To suspend, temporarily the duty on bicycle speedometers.
H.R. 2478—To suspend temporarily the duty on baby carriers, chain adjustors, chain covers, mechanical grips with 7/8" internal diameter, air horns, wide-angle reflectors, plastic saddle covers, safety pads, chain tensioners, toe clips, head sets, seat posts, all the foregoing for chief use on bicycles.
H.R. 2479—To suspend temporarily the duty on unicycles.
H.R. 2556—To suspend temporarily the duty on air freshener electric devices with warmer units.
H.R. 2557—To suspend temporarily the duty on air freshener electric devices.
H.R. 2817—To suspend temporarily the duty on certain basketballs.
H.R. 2818—To suspend temporarily the duty on certain leather basketballs.
H.R. 2819—To suspend temporarily the duty on certain rubber basketballs.
H.R. 2820—To suspend temporarily the duty on certain volleyballs.
H.R. 2821—To suspend temporarily the duty on certain synthetic basketballs.
H.R. 3033—To (1) provide duty-free treatment for certain educational devices; and (2) extend such treatment through December 31, 2008.
H.R. 3112—To suspend temporarily the duty on certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
H.R. 3113—To suspend temporarily the duty on certain cups, with or without saucers, of porcelain or china.
H.R. 3114—To suspend temporarily the duty on certain flags.
H.R. 3115—To suspend temporarily the duty on certain clocks.
H.R. 3116—To suspend temporarily the duty on certain glass articles.
H.R. 3117—To suspend temporarily the duty on certain glass articles of lead crystal.
H.R. 3118—To suspend temporarily the duty on certain music boxes.
H.R. 1221—To suspend the duty on certain rubber or plastic footwear.
H.R. 3386—To suspend temporarily the duty on certain footwear with open toes or heels.
H.R. 3387—To suspend temporarily the duty on certain work footwear.
H.R. 3388—To suspend temporarily the duty on certain women's footwear.
H.R. 3389—To suspend temporarily the duty on certain footwear for girls.
H.R. 3391—To suspend temporarily the duty on certain athletic footwear.
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H.R. 3486—To suspend temporarily the duty on certain footwear for men.
H.R. 3487—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3488—To suspend temporarily the duty on certain work footwear.
H.R. 3489—To suspend temporarily the duty on certain athletic footwear.
H.R. 3490—To suspend temporarily the duty on certain rubber or plastic footwear
H.R. 3491—To suspend temporarily the duty on certain leather footwear.

These bills would either reduce or eliminate the duties on many products that Wal-Mart sells to its customers. "Every day low prices" is our motto, thus any action taken by the Congress that will help us lower our prices to the consumer has our support.

It is our understanding that these products are not manufactured in any commercially viable manner in the United States. We hope that the Subcommittee will favorably report these bills as part of the miscellaneous trade package in the coming months.

Thank you very much for your consideration of this matter, and please feel free to contact me or Tres Bailey if you have any questions on these provisions or require additional information.

Sincerely,

Angela Marshall-Hofmann
Director, International Trade, Federal Government Relations

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